

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

The Honorable Board of Franklin County Commissioners met on the above date. Present for the meeting were Neva J. Corkrum, Chairman; Bob Koch, Chair Pro Tem; and Frank H. Brock, Member; Fred Bowen, County Administrator; and Mary Withers, Clerk to the Board.

OFFICE BUSINESS

Secretary Patricia Shults met with the Board. Present in audience: Dave Hopper, Pat Underwood and Gloria Trevino Caldwell.

Consent Agenda

Motion - Mr. Brock: I move for approval of the consent agenda as follows:

1. Approval of **joint Resolution 2006-192** in the matter of the request for signature from the Chairman of the Boards of Benton and Franklin County Commissioners on the Personal Services Contract between the Juvenile Justice Center and Morrison Refrigeration and Heating, for a term commencing April 1, 2006 through March 31, 2007. (Exhibit 1)
2. Approval of **Resolution 2006-193** for the Independent Contractor Agreement (between Franklin County and Samuel P. Swanberg) to provide legal representation to indigent persons charged with crimes in the courts of Franklin County, Washington (Superior Court), effective January 1, 2006 through December 31, 2008. (Exhibit 2)
3. Approval of **Resolution 2006-194** authorizing reimbursement from the Non-Departmental Budget, Number 001-000-700, line item 519.90.31.0000 (Office Supplies) for use of petty cash from the Commissioners Office in the amount of \$64.86, paid to the WSU / Franklin County Cooperative Extension Office for the purchase of three Spanish for Gringos books. (Exhibit 3)
4. Approval of **Resolution 2006-195** for disposal of four double and two single roof trusses as identified on the *Franklin County Storage – Salvage* form received from TRAC, in conjunction with RCW 36.32.210 (inventory). (Exhibit 4)

Second by Mr. Koch. 3:0 vote in favor.

Goodwill Industries

Goodwill Industries has requested approval to place a receiving station on TRAC property. The Board will discuss the request with TRAC Manager Troy Woody.

Soldiers and Sailors Fund

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

The Board will ask Assessor Steve Marks to provide some information about the assessment for the Soldiers and Sailors Fund.

Each Board member has reviewed the Soldiers and Sailors Fund Policy. It has been 19 years since it was put in place so it may need some adjustment based on the RCW.

Vouchers/Warrants

Motion – Mr. Koch: I move for approval of payment of Salary Clearing warrants: warrant 39879 through 40009 for \$173,410.91; warrants 40010 through 40016 for \$51,806.45; and Direct Deposit for \$228,690.51; for a total amount of \$453,907.87.

Second by Mr. Brock. 3:0 vote in favor.

The cover sheet also includes the following amounts:

Emergency Management payroll warrants 7884 through 7890 for \$3,050.80; warrants 7891 through 7894 for \$1,089.36; and Direct Deposit for \$7,429.45; for a total of \$11,569.61; and

Irrigation payroll warrants 11611 through 11625 for \$8,422.78; and warrants 11626 through 11629 for \$1,103.05; for a total amount of \$9,525.83. (Exhibit 5)

HUMAN SERVICES (HS)

HS Director Dave Hopper met with the Board. Present in audience: Pat Underwood and Gloria Trevino Caldwell of Crisis Response Unit.

Mental Health Update

Mr. Hopper gave the Board an update regarding the Mental Health Advisory Board meeting held last Thursday. He said the advisory board was not willing to endorse the Ann Strode report until there was more discussion. However, they did accept the report. Mr. Hopper had prepared a process to implement one part of Ann Strode's recommendations regarding the crisis triage concept but the advisory board did not support the planning process. Mr. Hopper would like to have an independent third party lead the process. Mr. Hopper told the Board what the Benton County Commissioners have directed him to do.

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Mr. Hopper said his office received additional direction at the RSN Executive Committee meeting. He reviewed some information from Glenn Lippman. Mr. Hopper said he understood we were to put this together and take it back to the RSN for review and potential submission to the full board. Mr. Koch said that was his understanding also. Mr. Koch said the RSN board wanted to see the whole ratchet of things come in, not just piecemeal.

Mrs. Corkrum asked why the RSN would be involved in this piece. Are they involved in every county that belongs to RSN on this triage? Mr. Hopper told the Board some history of the RSN involvement. The recent RFQ put out by the state clearly puts the RSNs in charge. It is a change. They are no longer a pass-through agency. We are their contractors. He gave the Board a chart titled "Community Inpatient Utilization All Ages," listing claims paid as of January 30, 2006. Central Network (combined) is Benton and Franklin Counties. These are bed days that we use in total for paid community hospitalizations. The bulk of the bed days are at Lourdes Hospital with a few of the bed days in Yakima and Spokane. (Exhibit 6)

Mr. Brock asked if there are enough beds for the needs. Mr. Hopper said no. He answered Mr. Brock's other questions about the bed availability. He answered the Board's questions about diversion. Diversion can be used for patients who do not need a hospital bed but need to be removed from a situation. There are very few diversion options available.

Mr. Koch said in 2005 the Central Network (which is Benton and Franklin Counties combined) had 262 admits with 7.45 admits per 1000 while the Western Network has 275 admits with 3.98 admits per 1000. He asked Mr. Hopper why. Mr. Hopper said it may be related to the number of people with welfare coupons. Mr. Koch said admits per 1000 wouldn't make any difference how many -- Mr. Hopper said average length of stay and reimbursement amounts affect the figures.

Mr. Hopper told the Board about how beds are used. He does not want to talk about not admitting people to the hospital who need to be admitted. He said we want to

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

get our admits down because we have used the hospital as the absolute last resource. He thinks more diversion beds would help us make appropriate diversions.

Mr. Koch asked, "What would constitute a diversion bed?" Mr. Hopper said we have two diversion beds, both in 24-hour-staffed facilities. At times we use motels. He wouldn't call it a diversion bed, but some people go back to their homes and families.

Mr. Brock said on the beds that are guaranteed and if you don't use it, couldn't something be worked out that if they weren't in use, they could use that and that money would come back against your contract? Mr. Hopper said it maybe could be talked about when a contract is negotiated. Right now it is not in the realm of possibility in the way the system has been for more than 30 years. Mr. Brock asked is there some law? Mr. Hopper said it's the state's system and the state's contract and they just hand us part of it to use.

Mr. Hopper said the RSN has been asked to take over a lot of the responsibilities in October 2006.

Mr. Hopper's concern is that we end up with an adequate planning process that helps us make changes. It needs to have total involvement by local community partners putting it together. He said a design team would be populated by local citizens to help guide a process put together by the local community. He told the Board there are fiscal impacts to all the partners.

PROSECUTOR

Chief Civil Deputy Prosecutor Ryan Verhulp met with the Board. Present in audience: Tiffany Coffland, Pat Underwood and Gloria Trevino Caldwell.

Ordinance for additional Real Estate Excise Tax (REET)

Mr. Verhulp has completed the draft of the additional Real Estate Excise Tax ordinance. Mrs. Corkrum asked how the other Board members feel about having a public hearing to adopt the ordinance. A public hearing is not required. Mr. Koch thinks there should be a public hearing. Mr. Brock sees nothing wrong with having a public hearing. Mrs. Corkrum would like to have a public hearing also.

Fernandez Claim

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

All the appropriate letters have been sent from the Prosecutor's Office for investigation of the Fernandez claim for unlawful imprisonment.

Risk Pool

All risk managers are going through a national certification course and testing process. Mr. Verhulp has completed the first course and passed the first test in Vancouver.

Facilitator positions

Mrs. Corkrum said there are a courthouse facilitator position and a clerk's facilitator position. The Clerk's facilitator can help people fill out papers.

CRISIS RESPONSE UNIT (CRU)

Pat Underwood and Gloria Trevino Caldwell of CRU met with the Board.

Ms. Caldwell described a situation regarding a psychiatric patient. She said there was a problem because there was no crisis bed available. If there was a crisis bed available, a hospitalization would have been prevented. She said employees at the CRU are the gatekeepers. We do the least restrictive alternative.

She described the lack of resources. She feels there needs to be more case management by providers, that they should be seeing clients more. We need to work together with providers and Lourdes in trying to make sure we see people.

When we talk about hospitalizations, we need to look at other resources that other communities are using. Do they have beds? We've never had crisis beds available because they are always filled.

Ms. Underwood said in past years we did pay for access to Lourdes using a contract that gave us preferential access. She said we have always had a higher limit in Benton and Franklin Counties because our hospital is a stand-alone psychiatric hospital and they have a different payment level than other areas. She described the payment systems in other facilities than Lourdes which are part of medical facilities. Those systems want people to leave as early as possible because of their payment levels. Ms. Underwood wonders why we can't get beds now in Yakima.

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Ms. Caldwell feels beefing up services would be helpful so that consumers receive services before becoming extremely ill. Once a person is extremely ill, it is harder to stabilize the person.

Both Ms. Caldwell and Ms. Underwood serve on two different homeless committees.

Ms. Underwood told the Board about the committees that have met in previous years and said those committee members feel like they have already been through a process and determined a triage center is needed.

Ms. Caldwell and Ms. Underwood told the Board they are available for any clarification. We want to do what's best for the clients.

TREASURER

Treasurer Tiffany Coffland met with the Board.

Petty Cash Fund

Ms. Coffland explained why she would like a petty cash fund eliminated in the Treasurer's Office.

Motion – Mr. Koch: I move to rescind Franklin County Resolution 94-072 which established a petty cash fund to handle overages and shortages for the Treasurer's Office. This is Resolution 2006-196. Second by Mr. Brock. 3:0 vote in favor. (Exhibit 7)

Department Update

Ms. Coffland gave an update on the current county budget figures.

The cash register system was received. It cost about \$2000 less than anticipated. The balancing process is still cumbersome.

Tax collections are coming in.

Recessed at 10:13 a.m.

Reconvened at 10:20 a.m.

PUBLIC WORKS

Engineer Tim Fife met with the Board. Present in audience: Troy Woody.

CRP 586 Wernett Phase II: Local Agency Supplement No. 1

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Motion – Mr. Koch: I move that we accept the Local Agency Agreement LA 5954, Supplement #1, between Franklin County and the Washington State Department of Transportation for Wernett Road. This is Resolution 2006-197. Second by Mr. Brock. 3:0 vote in favor. (Exhibit 8)

Leveling in TRAC arena

Public Works has a piece of equipment that will be used for leveling in the TRAC arena on a periodic trial basis.

Prospectus: Commercial/Tank Farm Location Study

Mr. Fife described work that will be done to find the best location to determine a footprint for the Commercial/Tank Farm frontage road.

Motion – Mr. Brock: I move for the approval of Resolution 2006-198 as specified. Second by Mr. Koch. 3:0 vote in favor. (Exhibit 9)

Dilling Lane Bridge

Mr. Fife said he has been told that the state had decided to provide another \$39,000 and free up some of the problems we were having with approach costs on the Dilling Lane Bridge project. They are viewing the approach costs differently. He expects to have the paperwork ready to award the bid on Monday.

TRAC

TRAC Manager Troy Woody met with the Board. Present in audience: Becky Beckett.

First Quarter Financial Review

The Board reviewed the March financial statement compared to budget figures and year-to-date budget figures. No subsidies are in these figures, either in actual or budgeted figures. The subsidies will be billed quarterly.

Fence Extension

Mr. Woody showed the Board a map of TRAC and showed where he would like to extend a fence line. It will allow equipment to be placed in a row in an orderly fashion. The Board gave **consensus approval**.

Dance and wedding analysis

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Mr. Woody gave the Board a financial analysis of two events held last weekend.

Horse Show

The outdoor arena is 150 x 250, the same size as the inside arena.

Billy Goat purchase

TRAC has purchased a machine called a Billy Goat. It is an 18-horsepower motor on a bracket that attaches to the back of a tailgate and has a 12-inch hose and chipper attached. It will be tested this afternoon. It should vacuum up all the shavings in the horse stalls without touching a shovel, process it through a machine, and send it into a pickup bed. If it works, it will require much less labor than is currently used (at least by two-thirds) as well as provide a useful end product.

COUNTY ADMINISTRATOR

County Administrator Fred Bowen met with the Board. Present in audience:

Becky Beckett.

Jim Chase letter

The Board reviewed a memo from Jim Chase, Finance Manager at City of Pasco, complimenting Assessor Steve Marks and his office for providing valuation information in a timely manner to the state (Exhibit 10).

Laptop for Commissioners Office

Mr. Bowen asked the Board to consider purchasing a laptop computer to be used for multiple things such as out-of-town travel, for the new drop-down screen in the Commissioners Meeting Room, and for budget workshops. The cost is about \$1600. Mr. Bowen suggests the cost come out of the Courthouse Restoration fund. The Board gave **consensus approval**.

Economic Development Plan

Mr. Bowen asked the Board to review the projects listed in a draft county Economic Development Plan. He would like the Board to be the rating committee for the projects. There is \$2 million available after bonding. The Board needs to decide how to distribute the funds to the different projects.

Courthouse Renovation

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Rotunda Centerpiece: Mr. Bowen has contacted Gold Leaf Restoration in Portland who did the work in the courthouse, asking if it is possible to order a bronze statue and have it be leafed to be identical to the rest of the courthouse. Mr. Bowen described the work that needs to be done. The Historical Society group selected the 6'4" statue of the woman with a fountain. It is not the statue that the Board had preferred. He asked for Board approval to order the statue. Mrs. Corkrum asked if the statue will be just as durable with the lesser material for the statue. Mr. Bowen said the person who would do the work said it would be. The statue cost would be \$5700. A basin and woodwork underneath would be added as well as gold leafing. The total cost will be about \$15,000. Mrs. Corkrum asked about the figure in the grant proposal that was submitted to the state. Mr. Bowen said it was \$25,000.

The Board gave **consensus approval**. The original blueprint shows a fountain of a woman holding a jug.

Moving Dates: The rededication and reception will be held on May 17. The last open house for the public is May 19. We could start moving on May 22. He asked for Board approval to proceed with arrangements. The actual moving may not start until June 1. The Board **gave approval**.

Jackson & Perkins Roses have been received. A group from Connell is interested in helping to plant the 80 roses.

WILLIAMS NORTHWEST PIPELINE (WNP)

Williams Pipeline District Manager Mr. Tom Grant, Project Lead Mr. Kevin Self, Chief Inspector Mr. George Shrider and Land Lead Mr. Audir Neuson met with the Board. Present in audience: Ms. Becky Beckett.

2006 Right Of Way Recovery Project

Mr. Grant gave the Board a printed copy of the Williams 2006 Right Of Way Recovery Project and did a computer Power Point presentation about it. Williams Pipeline will be doing work on their pipeline in the county. They wanted the Board to be aware of the work that will be done.

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

In answer to a Board question, Mr. Grant said Northwest Pipeline is one of their legal names.

Mr. Brock referred to a situation with Northwest Pipeline when TRAC was being built. He asked if Williams Pipeline will re-survey their line. Mr. Grant said if we think a survey is necessary, we will survey. He said we do have a land agreement with every one of these properties right now.

Mr. Grant said it is a 20-inch, all steel, high pressure pipeline. It can have up to 811 pounds pressure on it. Mr. Brock asked what the life span is of the pipeline. Mr. Grant said forever, as long as it is protected. The pipeline was put in place in the 1950s. The life is considered indefinite as long as it has cathodic protection.

Mr. Shrider said natural gas is dry so there is no internal corrosion. Mr. Self told about running what is called a "smart pig" in this area last year. It went from west of the State Patrol office in Kennewick to Mesa, a 47-mile run. Many reports are issued from the tests.

Markers are located on the pipeline as required by law, including on each side where it crosses a road.

Load crossings or concrete slabs are sometimes used to help spread load.

The men met with the Kennewick city manager this morning. The next phase will be to contact landowners and have public meetings.

George Shrider will be the contact for the commissioners.

COUNTY ADMINISTRATOR (continuing)

Auction of County Property near TRAC

The Board reviewed a proposed contract with Western Real Estate Auction, LLC. Regarding compensation to the Auctioneer/Broker from the Seller, Paragraph 3a states: "Eighty percent (80%) of the "BUYER'S PREMIUM" charged upon each property sold at auction through closing and during the term of this contract. The Auctioneer/Broker shall have no entitlement to any "BID PRICE" monies, nor shall have any entitlement to "BUYER'S PREMIUM" monies exceeding the aforementioned eighty percent (80.0%)."

Mr. Brock agreed with the wording.

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

Section 8b regarding earnest money was reviewed. The proposed contract states if a buyer backs away, the earnest money would be divided at 50% to the auctioneer and 50% to the county. He asked if the Board approves the 50%-50% split. Mr. Brock asked what the standard is. Mr. Bowen does not know. Mr. Brock said the owner has kept it off the market and the auctioneer has put in some time. Mr. Brock would like to check what the standard practice is to split earnest money if a buyer backs out for any reason other than subject to financing. Mr. Koch feels the 50%-50% is appropriate.

Mr. Bowen said Cascade Title has not yet provided the title report for the six lots, which needs to be attached as an exhibit.

Exhibit B is required from Western Real Estate, which is the pre-qualification/bid specifications.

The Board discussed the earnest money division at great length. Mr. Brock asked Mr. Bowen to find out what other contracts show as a division amount.

Mr. Bowen asked if the Board would approve a Letter of Intent to Merle Booker of Western Real Estate Auction to start the process. Mr. Koch said absolutely. He wishes we would have done this a month ago.

Motion – Mr. Brock: I move we give a letter of intent to Booker Auction (Western Real Estate Auction) to proceed with marketing our ground in front of TRAC with full reimbursement for money spent if contract negotiations fail. Second by Mr. Koch. 3:0 vote in favor. (Exhibit 11)

Mr. Bowen asked the Board to determine a minimum bid price for the parcels when they meet next week.

Executive Session at 12:01 p.m. regarding personnel expected to last 10 minutes.

Open Session at 12:06 p.m.

Recessed at 12:07 p.m.

Reconvened at 12:16 p.m.

Change of Status

Motion – Mr. Brock: I move we sign this change of status for Fred Bowen. Second by Mr. Koch. 3:0 vote in favor.

COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

MINUTES

Motion – Mr. Koch: I move for approval of minutes for April 10, 2006. Second by Mr. Brock. 3:0 vote in favor.

Adjourned at 12:18 p.m.

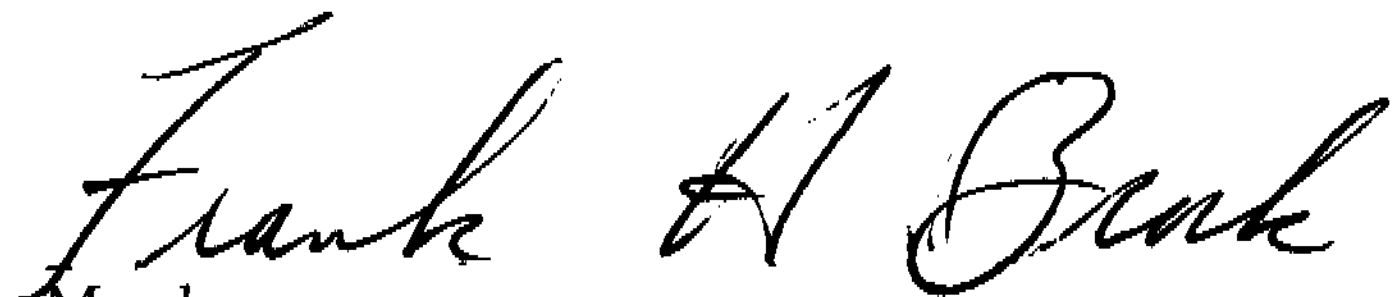
COMMISSIONERS RECORD 47
FRANKLIN COUNTY
Commissioners' Proceeding for April 12, 2006

There being no further business, the Franklin County Board of Commissioners meeting was adjourned until April 17, 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Chairman


Chairman Pro Tem


Member

Attest:


Clerk to the Board

Approved and signed April 17, 2006.

JOINT RESOLUTION

06 189

BENTON COUNTY RESOLUTION NO.

FRANKLIN COUNTY RESOLUTION NO.

2006 192

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT BETWEEN THE JUVENILE JUSTICE CENTER AND MORRISON REFRIGERATION AND HEATING, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Personal Services Contract between Morrison Refrigeration and Heating, and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing April 1, 2006 and terminating on March 31, 2007, **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the Personal Services Contract.

DATED this 3rd day of April 2006
BENTON COUNTY BOARD OF COMMISSIONERS


Chairman of the Board


Member


Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:


Clerk of the Board

^{12th}
DATED this 10th day of April 2006
FRANKLIN COUNTY BOARD OF COMMISSIONERS


Chairman of the Board


Chairman Pro Tem


Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:


Clerk of the Board

JUDGES

Hon. Dennis D. Yule
Hon. Craig J. Matheson
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

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

LONNA K. MALONE
JOSEPH R. SCHNEIDER
JERRI G. POTTS
Court Commissioners

PERSONAL SERVICE CONTRACT BETWEEN BENTON AND FRANKLIN COUNTIES SUPERIOR COURTS JUVENILE DIVISION AND MORRISON REFRIGERATION AND HEATING

This Contract is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton/Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter, collectively referred to as, "Counties"), and Morrison Refrigeration and Heating, with its principal offices at 1990 Saint Street, Richland, WA 99352 (hereinafter "Contractor").

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

1. CONTRACT DOCUMENTS

This Contract includes the following exhibits, which are incorporated herein by reference:

- A. Exhibit A, Peak Performance Service Agreement/Equipment To Be Serviced List; and
- B. Exhibit B, Certificate of Insurance

2. DURATION OF CONTRACT

The term of this Contract shall begin April 1, 2006, and shall expire on March 31, 2007. The Contractor shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The Contractor shall perform the following services:

- A. The Contractor shall provide building environmental maintenance services as set forth in Exhibit A, "Peak Performance Service Agreement/Equipment To Be Serviced List", which is attached hereto and incorporated herein by reference.
- B. The Contractor agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the Counties.
- C. The Contractor shall perform the work specified in this Contract according to standard industry practice.
- D. The Contractor shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- E. The Contractor shall confer with the Counties from time to time during the progress of the work. The Contractor shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the Counties.

4. **CONTRACT REPRESENTATIVES**

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

- A. For Contractor: **Mark Johnson, Service Manager**
1990 Saint Street
Richland WA 99352
- B. For Counties: **Sharon Paradis**
Juvenile Court Administrator
5606 W Canal PL STE 106
Kennewick WA 99336

5. **COMPENSATION**

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

- A. The Counties shall pay \$12,500.00 in four equal payments of \$3,125.00, paid on a quarterly basis, for services outlined in this Contract.
- B. The maximum total amount payable by the Counties to the Contractor under this Contract shall not exceed \$12,500.00 for the twelve-month period.
- C. No payment shall be made for any work performed by the Contractor, except for work identified and set forth in this Contract.
- D. The Contractor may submit invoices to the Counties not more than once per quarter during the progress of the work for partial payment of the work completed

to date. Invoices shall cover the time Contractor performed work for the Counties during the billing period. The Counties shall pay the Contractor for services rendered during the previous quarter and will remit payment within thirty (30) days from the date of receipt of the quarterly invoice.

- E. The Contractor shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the Counties.
- F. In the event the Contractor has failed to perform any substantial obligation to be performed by the Contractor under this Contract and such failure has not been cured within ten (10) days following notice from the Counties, the Counties may, in its sole discretion, upon written notice to the Contractor, withhold any and all monies due and payable to the Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- G. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the Contractor will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

6. AMENDMENTS AND CHANGES IN WORK

- A. In the event of any errors or omissions by the Contractor in the performance of any work required under this Contract, the Contractor shall make any and all necessary corrections without additional compensation. All work submitted by the Contractor shall be certified by the Contractor and checked for errors and omissions. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the Counties.
- B. No amendment, modification or renewal shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the Counties.

7. HOLD HARMLESS AND INDEMNIFICATION

- A. The Contractor shall hold harmless, indemnify and defend the Counties, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractor's 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 Counties, its officers, officials, employees or agents.

- B. In any and all claims against the Counties, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing this Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work hereunder.
- C. The Contractor's obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

8. INSURANCE

- A. **Professional Legal Liability:** The Contractor, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the Contractor's profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy-limit it shall be at least two times the incident, loss or person limit.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the Contractor's services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. Contractor is required to buy professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy.

- B. **Workers Compensation:** Contractor shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage shall be provided for all employees of Contractor and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, Contractor waives all rights of subrogation against the Counties for recovery of damages to the extent they are covered by workers compensation, employer's liability, commercial liability or commercial umbrella liability insurance.

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

- C. **Commercial General Liability and Employers Liability Insurance:** Contractor shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000).

The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent; provided, coverage will be no more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

Contractor also shall maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

D. **Other Insurance Provisions:**

- (1) The Contractor's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the Counties, its elected and appointed officers, officials, employees and agents.
- (2) The Counties, its officers, officials, employees and agents shall be named as additional insureds with respect to performance of services on all required insurance policies, except for any required automobile liability policy.
- (3) The Contractor's liability insurance policies shall contain no special limitations on the scope of protection afforded to the Counties as an additional insured.
- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Counties, its officers, officials, employees or agents.
- (5) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- (6) The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (8) The Contractor shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. If the Contractor's liability coverage is written as a claims-made policy, then the Contractor must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after completion of the services required under this Contract.

F. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a current A.M. Best Rating of not less than A: VII. Any exception to this requirement must be reviewed and approved by the Benton and Franklin Counties Prosecutors' Offices. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- (1) The Contractor shall furnish the Counties with properly executed and unaltered accord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the Counties. Any certificate or endorsement limiting or negating the insurer's obligation to notify the Counties of cancellation or changes shall be altered so as not to negate the intent of this provision.
- (2) The Contractor shall furnish the Counties with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the Counties as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton-Franklin Counties" and include "c/o" the Counties' Contract Representative. The address of the certificate holder shall be shown as the current address of the Counties' Contract Representative.
- (4) The Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written

verification to the Counties that Contractor is currently paying workers compensation.

- (5) All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the Counties at the following address:

Juvenile Court Administrator
Benton-Franklin Juvenile Justice Center
5606 W Canal PL STE 106
Kennewick WA 99336-1388

- (6) The Contractor or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.
- (7) If Contractor is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to Counties. If requested by Counties, Contractor must describe its financial condition and the self-insured funding mechanism.

9. TERMINATION

- A. The Counties may terminate this Contract in whole or in part whenever the Counties determines, in its sole discretion, that such termination is in the best interests of the Counties. The Counties may terminate this Contract upon giving ten (10) days written notice by certified mail to the Contractor. In that event, the Counties shall pay the Contractor for all cost incurred by the Contractor in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.
- B. If the Contractor breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the Counties, the Counties may terminate this Contract, in which case the Counties shall pay the Contractor only for the costs of services accepted by the Counties, in accordance with the Compensation Section of this Contract. Upon such termination, the Counties, at its discretion, may obtain performance of the work elsewhere, and the Contractor shall bear all costs and expenses incurred by the Counties in completing the work and all damage sustained by the Counties by reason of the Contractor's breach.

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- A. The Contractor shall perform the terms of the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the Counties.
- B. The Contractor warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

- A. The Contractor's services shall be furnished by the Contractor as an independent contractor and not as an agent, employee or servant of the Counties. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- B. The Contractor acknowledges that the entire compensation for this Contract is set forth in Section Five of this Contract, and the Contractor is not entitled to any Counties benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to Counties employees.
- C. The Contractor shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the Contractor shall be or deem to be or act or purport to act as an employee, agent, or representative of the Counties.
- D. Contractor shall pay for all taxes, fees, licenses, or payments required by federal, state or local law, which are now or may be enacted during the term of this Contract.
- E. The Contractor agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the Counties' contract representative or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The Counties may, at reasonable times, inspect the books and records of the Contractor relating to the performance of this Contract. The Contractor shall keep all records required by this Contract for six (6) years after termination of this Contract for

audit purposes.

15. NONDISCRIMINATION

The Contractor, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status, the presence of any disability, or any other protected status.

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- A. All reports, specifications, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the Counties. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The Counties agrees that if it uses any materials prepared by the Contractor for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the Contractor harmless therefrom to the extent such use is not agreed to in writing by the Contractor.
- B. An electronic copy of all word processing documents shall be submitted to the Counties upon request or at the end of the job using the word processing program and version specified by the Counties.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the Counties or acquired by the Counties in performance of this Contract, except upon the prior written consent of the Counties or an order entered by a court of competent jurisdiction. The Contractor shall promptly

give the Counties written notice of any judicial proceeding seeking disclosure of such information.

20. CHOICE OF LAW, JURISDICTION AND VENUE

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

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

Morrison Refrigeration & Heating

Mark Johnson 3/22/06
 Mark Johnson Date

**Benton Franklin Counties
 Juvenile Justice Center**

Sharon A. Paradis 3/17/06
 Sharon A. Paradis Date

BENTON COUNTY APPROVAL

Approved as to Form:

Sarah Villanueva 3/23/06
 Sarah Villanueva, Deputy Prosecuting Attorney Date

By: *Max E. Benitz, Jr.*
 Name: Max E. Benitz, Jr.
 Title: Chairman, Board of Commissioners
 Date: April 3, 2006

Attest:

Clerk of the Board: *Jana Small*

FRANKLIN COUNTY APPROVAL

Approved as to Form:

Agreed Review Performed by Benton County
 Ryan Verhulp, Civil Deputy Prosecuting Attorney Date

By: *Neva J. Corkrum*
 Name: Neva J. Corkrum
 Title: Chairman, Board of Commissioners
 Date: APRIL 12, 2006

Attest:

Clerk of the Board: *Mary Withers*


MORRISON

REFRIGERATION & HEATING

Peak Performance Service Agreement Exhibit A

Pricing & Acceptance

Customer

Benton Franklin Juvenile Justice Center

Billing Address

5606 W Canal Place Suite 106

Kennewick, WA 99336-1388

Contact & Phone No

James Stedman (509) 736-2717

MORRISON REFRIGERATION & HEATING

also referred to as the Service Company, agrees to furnish services in accordance with the *General and Supplemental Terms and Conditions* and each *Peak Performance Maintenance Schedule*.

Equipment to be Serviced

Quantity	Manufacturer	Model/Type of Equipment	Serial Number	Location
----------	--------------	----------------------------	------------------	----------

Provide preventative maintenance, parts repair and replacement. This includes furnishing labor, test equipment and special tools. The mechanical equipment will be cleaned, lubricated, adjusted (3) times per year or according to manufacturers specifications. All maintenance work will be coordinated with the counties to keep disruption of the Juvenile justice Center's daily operation to a minimum.

When the counties request emergency service, Morrison will charge the counties prevailing service labor rates.

All maintenance materials and repair parts are to be furnished by Benton and Franklin counties. The labor to install these parts will be provided by Morrison Construction Services.

This contract will be billed out (4) times per year.

The Agreement Price is \$12,312.00 per year, payable \$3,078.00 per QUARTER. This Agreement is effective from April 2006 through March 2007.

Customer Acceptance:

Signature

Title

(Type or Print Name of Signer)

Acceptance Date

Service Company Approval:

Signature

Title

Mark Johnson

(Type or Print Name of Signer)

Approval Date



Exhibit A

1990 Saint Street • Richland, WA 99354
 Bus: (509) 375-1990 • Fax: (509) 375-1708
www.morrisoninc.com

Maintenance Equipment List

Benton-Franklin Counties Juvenile Justice Center

Old Section

30ea	Enercon Mod# VW Heat Pumps
1 ea	McGraw-Edison Mod# 7583 Make Up Air Unit
2 ea	CirculationPumps Mod# 2-1/2 B7
1 ea	McGraw-Edison Cooling Tower 7581
1 lot	Temperature Controllers

New Section:

20 ea	Trane Gas Electric Package Units Mod# YCC
1 ea	Trane Mod# TWE Air Handler
1 ea	Trane Mod#TTA Condensing Unit
1 ea	Carrier Mod# 38HD Condensing Unit
1 ea	Carrier Mod# 40AQ Fan Coil
5 ea	Reznor Duct Furnace Mod# RGB
6 ea	Reznor Make Up Air Units Mod# RDF
1 ea	Reznor Unit Heater Mod# FE25-S
1 lot	ATS Controls

**MORRISON**

REFRIGERATION & HEATING

Exhibit A

HEAT PUMP SCHEDULE PEAK PERFORMANCE MAINTENANCE SCHEDULE

1. Condenser coil will be inspected for heat transfer loss.
2. Blower wheels and fans will be inspected and cleaned to assure proper air delivery.
3. Refrigerant will be checked for proper charge and to assure system is leak free.
4. Exposed duct work will be checked for leaks and proper insulation.
5. Belts and pulleys will be inspected and adjusted as required.
6. Thermostats will be checked and calibrated as required.
7. Motors and bearings will be lubricated as required.
8. Controls and safeties will be tested.
9. Condensate drain will be checked.
10. Crankcase heater will be checked for proper operation.
11. Relays and contactors will be inspected.
12. Unit wiring and electrical disconnect will be inspected.
13. Economizer operation will be checked, where applicable.
14. Temperature and pressures will be recorded.
15. Evaporator coil will be inspected and cleaned annually, if necessary.
16. Defrost timer will be checked.
17. Reversing valve will be operationally tested.
18. Auxiliary heat strips will be operationally checked.
19. Air filters will be replaced [] time(s) per year.
20. Condenser coils will be power washed [] time(s) per year.
21. Furnish inspection report and advise of any abnormal conditions or necessary repairs.

ACORD CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
 Western States Ins of Richland
 PO Box 70
 1000 Jadwin, Suite 500
 Richland WA 99352
 Phone: 509-946-6161 Fax: 509-946-0715
 INSURED

Morrison Construction Service
 INC
 1990 Saint Street
 Richland WA 99352

OP ID R3 MORRI-1 DATE (MM/DD/YYYY) 01/05/06

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Landmark America Ins CO

INSURER B: RSUI Indemnity Company

INSURER C: North Pacific Insurance

23892

INSURER D:

INSURER E:

COPY

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY				
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BLANKET ADD. INS.	LHA129097	12/31/05	12/31/06	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
	AUTOMOBILE LIABILITY				
C	<input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	CO6155306	12/31/05	12/31/06	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	GARAGE LIABILITY				
	<input type="checkbox"/> ANY AUTO				
	EXCESS/UMBRELLA LIABILITY				
B	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0	NHA213269	12/31/05	12/31/06	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	RENTED/LEASED EQUIPMENT	CO6155306	12/31/05	12/31/06	POLICY LIMIT \$325,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS					

CERTIFICATE HOLDER

BENTON FRANKLIN COUNTIES
 JUVENILE JUSTICE CENTER
 5606 W CANAL PL STE. 106
 KENNEWICK WA 99336

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Roxan D. Shuck

AGENDA ITEM:	Consent	TYPE OF ACTION NEEDED	
		Executive Contract <u>XX</u>	Consent Agenda <u>xx</u>
MEETING DATE:	B/C 04-03-06 F/C 04-10-06	Pass	Public Hearing
		Resolution <u>XX</u>	
SUBJECT: Personal Services Agreement Morrison Refrigeration and Heating Maintenance Agreement		Pass Ordinance	1st Discussion
Prepared By:	Kathryn M. Phillips	Pass Motion	2nd Discussion
Reviewed By:	Sharon Paradis	Other	Other

BACKGROUND INFORMATION

Morrison Refrigeration and Heating are experts in their industry and have provided maintenance and repair services for the Benton-Franklin Counties Juvenile Justice Center for many years. Morrison's staff is extremely familiar with the many facets of Juvenile Center's heating and air-conditioning units and they are able to prevent the need for major repair and they are timely and quick in their ongoing service. This Personal Services Agreement that is presented would continue uninterrupted service for one year, April 1, 2006 through March 31, 2007.

SUMMARY

Juvenile would like to continue contracting with Morrison Refrigeration and Heating to repair and maintain it's heating and air-conditioning units.

RECOMMENDATION

We recommend that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract between Benton-Franklin Juvenile Justice Center and Morrison Refrigeration and Heating for the period of April 1, 2006 through March 31, 2007.

FISCAL IMPACT

The budget amount is included in the already approved Juvenile Facilities Department #172 budget. There is no change in the service rate.

MOTION

I move that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract between Benton-Franklin Counties Juvenile Justice Center and Morrison Refrigeration and Heating, to continue providing heating and air-conditioning maintenance for the Juvenile Justice Center for the period of April 1, 2006 through March 31, 2007.

FRANKLIN COUNTY RESOLUTION**2006 193**

BEFORE THE BOARD OF COUNTY COMMISSIONERS, FRANKLIN COUNTY, WASHINGTON

RE: INDEPENDENT CONTRACTOR AGREEMENT (BETWEEN FRANKLIN COUNTY AND SAMUEL P. SWANBERG) TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS CHARGED WITH CRIMES IN THE COURTS OF FRANKLIN COUNTY, WASHINGTON (SUPERIOR COURT) EFFECTIVE JANUARY 1, 2006 THROUGH DECEMBER 31, 2008

WHEREAS, the Franklin County Board of Commissioners placed an advertisement seeking qualified attorneys to receive court appointments on an independent contractor basis to perform legal defense services for indigent persons charged with crimes in Franklin County Superior Court, as contracts expired December 31, 2005; and

WHEREAS, Attorney Sam Swanberg expressed a desire and willingness to continue to serve as legal defense for indigent persons; and

WHEREAS, pursuant to R.C.W. 36.01.010 and R.C.W. 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

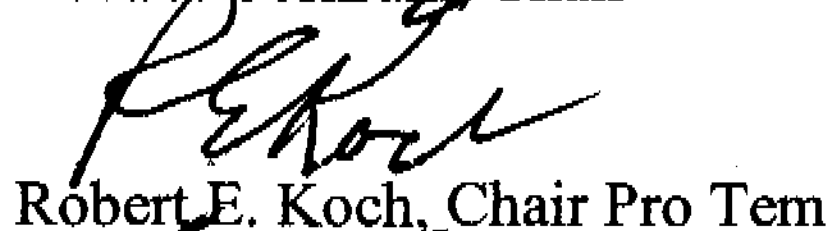
WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into this agreement as being in the best interest of Franklin County;

NOW, THEREFORE, BE IT RESOLVED the Franklin County Board of Commissioners hereby approves the attached Independent Contractor Agreement (between Franklin County and Samuel P. Swanberg) to provide legal representation to indigent persons charged with crimes in the courts of Franklin County, Washington (Superior Court), effective January 1, 2006 through December 31, 2008.

APPROVED this 12th day of April 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk to the Board

Originals: Auditor
Minutes
Sam Swanberg

cc: Superior Court Administrator
Prosecuting Attorney
Tim Klashke

2006 193

**INDEPENDENT CONTRACTOR AGREEMENT TO
PROVIDE LEGAL REPRESENTATION TO INDIGENT
PERSONS CHARGED WITH CRIMES IN THE COURTS
OF FRANKLIN COUNTY, WASHINGTON**

THIS AGREEMENT shall be deemed made and effective as of the 1st day of January, 2006, and is entered into by and between the **COUNTY OF FRANKLIN, WASHINGTON**, a state of Washington municipal corporation (hereinafter referred to as the "County"), and **SAMUEL P. SWANBERG**, an Attorney at Law (hereinafter referred to as "Attorney").

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS:

- A. The County has the legal responsibility to provide legal defense services to indigent persons charged with crimes alleged to have been committed within the County's jurisdictional boundaries.
- B. Attorney has experience in defending persons charged with crimes and desires to contract with the County to provide legal defense services to indigent persons charged with crimes alleged to have been committed within the County's jurisdictional boundaries.

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

1. **TERM.** This Agreement shall be deemed effective for all purposes as of the **1st day of January, 2006**, and shall continue thereafter for a period of **three (3) years** through and including the **31st day of December, 2008**, unless earlier terminated pursuant to paragraph 23 below. Provided that, however, Attorney shall be fully obligated to continue representing all persons whom Attorney has been appointed hereunder to represent through the final conclusion of the case or matter in which Attorney was appointed to represent such persons notwithstanding that such continued representation may require Attorney to perform such services and representation after the termination date of this Agreement.

2. **OFFICE LOCATION.** Attorney presently and regularly maintains an office for the practice of law at 1310 N. 5th Ave, Pasco, WA 99301-4172. Attorney's current local office telephone number is (509) 544-9634. Throughout the entire term of this Agreement, Attorney shall continue to maintain such office and telephone number; provided that, however, Attorney may relocate Attorney's office to another location within the Tri-Cities, Washington, and/or Attorney may change Attorney's telephone number to another Tri-Cities local telephone number provided that Attorney provides advance written notice of such change(s) to the County, the Franklin County Prosecuting Attorney, the Franklin County Superior Court, the Franklin County District Court, the Franklin County Superior Court Clerk, and the Franklin County District Court Clerk.

3. **LICENSE AND QUALIFICATION.** 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 two (2) years of direct trial experience in felony criminal defense or criminal prosecution matters; has not been found by a court of competent jurisdiction to have rendered ineffective assistance of counsel to a criminal defendant; has not been censored, 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; and has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past.

This Agreement shall be subject to termination pursuant to paragraph 23 below in the event that Attorney fails to comply with any material provision of this Agreement; in the event that Attorney's license to practice law in the state of 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 a criminal defendant; in the event that Attorney is censored, 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.

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 criminal actions in Benton and Franklin counties 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 for whom Attorney is appointed to represent under this Agreement. During each calendar year throughout the term of this Agreement, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses relating to criminal defense. Attorney shall provide the County with written proof and confirmation that such CLE

credits have been obtained no later than by December 31st of each such calendar year. Additionally, during each calendar year throughout the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii), Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense ("WOPD"). The County may provide Attorney's name and address to the WOPD for purposes of the WOPD notifying Attorney of such upcoming training seminars. Attorney shall provide the County 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.

Attorney further represents and warrants that, throughout the entire term of this Agreement, Attorney will have adequate time in Attorney's private law practice caseload and regular personal schedule and will have adequate office support staff services, office resources, and office equipment to competently undertake and effectively perform all services required under this Agreement. Attorney further represents and warrants that Attorney's private law practice and personal schedule will not unduly or unreasonably 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 indigent 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 to the alleged criminal charge(s) and keeping such persons reasonably apprised as to the status of their case. No later than by the 10th day of each month during the term of this Agreement, Attorney shall provide the County with a written report showing the total number and types of private practice cases (which for purposes of this Agreement shall include pro bono cases and retained-fee cases) in which Attorney provided legal services during the preceding month, the total number of court-appointed cases under this Agreement in which Attorney provided legal services during the preceding month, and the percentage of time spent by Attorney during the preceding month providing legal services in private practice cases versus and in relation to time spent by Attorney during the preceding month providing legal services in court-appointed cases under this Agreement.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** On or about the date of this Agreement, it is contemplated that the County will enter into identical (but separate and independent) agreements with three (3) other licensed attorneys to provide criminal defense services to indigent persons in the County's courts. Attorney agrees to cooperate and coordinate with said other attorneys and the County's Superior and District Courts to establish and effectuate a process to ensure an efficient and equitable distribution of appointments between Attorney and said other attorneys, and Attorney further agrees that the County has no responsibility for, or any involvement in, the establishment or implementation of such process.

Additionally, Attorney and said other contracting attorneys (sometimes hereinafter collectively referred to as the "Indigent Defense Panel") shall collectively designate one (1) of them to act as their spokesperson and liaison with the Courts, the County Prosecuting Attorney's office, the County's Board of Commissioners, and the Benton-Franklin local Bar Association. The name of the attorney so designated (and, if/when applicable, said attorney's duly designated replacement) shall be promptly provided in writing to all of the above-designated entities.

5. **COURT APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept court appointments to represent eligible indigent persons (regardless of their race, color, national origin, age, marital status, sexual orientation, handicap, or political or religious affiliation) on any felony matter in Franklin County Superior Court or in Franklin County District Court (said courts are sometimes hereinafter collectively referred to when the context permits as the "Court" or "Courts") in which publicly-provided counsel is furnished or required by law.

More specifically, Attorney shall accept court appointments on the following matters:

- (a) Any matter filed in Franklin County Superior Court in which publicly-provided counsel is furnished or required by law (except for matters in juvenile court under Title 13 RCW and matters specifically and exclusively covered by another legal services contract or those matters that are the legal responsibility of another governmental entity such as, without limitation, the state of Washington Attorney General's Office).
- (b) Any appeal or statutory writ from Franklin County District Court or from any municipal court for which attorneys appointed pursuant to a contract with the County are unable to handle due to a conflict of interest and/or any appeal from Franklin County District Court involving cases in which Attorney was appointed by such court.
- (c) Any felony matter initially filed in Franklin County District Court, including those cases in which a felony charge is ultimately reduced to a misdemeanor or gross misdemeanor charge.
- (d) Any non-felony criminal filing in Franklin County District Court up to a maximum of six (6) appointments per calendar year.
- (e) Any Franklin County District Court probation violation involving cases in which Attorney was previously appointed or involving cases in which attorneys appointed pursuant to a legal services

contract with the County are unable to handle due to a conflict of interest.

Without limitation to Attorney's duty to initially meet with an indigent defendant to discuss his/her 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 indigent defendant is jailed/imprisoned), Attorney shall arrange to meet in person (face-to-face) with the defendant as soon as possible but no later than within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make sooner initial contact with the defendant). Additionally, throughout Attorney's representation of any indigent defendant under this Agreement, Attorney shall maintain appropriate contact/communications with the defendant so as to keep him/her fully apprised as to the status of his/her case; and Attorney shall apprise the defendant 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 sooner contact with the defendant). Without limiting any of the foregoing, with regard to any post-appointment court hearing involving an "in custody" defendant, Attorney shall contact (either in person or via telephone) such defendant to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

6. **CONTINUED REPRESENTATION.** In the event that a change of venue is granted to a person for whom Attorney has been appointed to represent under this Agreement, Attorney shall continue to represent such person in the court to where venue is transferred. Further, as mentioned above, Attorney's obligation to provide representation under this Agreement includes the obligation to timely and fully complete all cases or matters encompassed by this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded during the term of this Agreement, and Attorney's obligation to fully complete all cases or matters encompassed by this Agreement following its termination shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

By way of example, in the event that Attorney was required by this paragraph to continue representing an indigent person charged with a non-homicide crime after the above-stated termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation. By way of further example, in the event that Attorney was required by this paragraph to continue representing an indigent person charged with a homicide after the above-stated termination date of this Agreement, the only compensation that Attorney would be entitled to receive as a result of such continued representation is specified in paragraph 15 below.

7. **NUMBER OF APPOINTMENTS.** For each calendar year during the term of this Agreement, Attorney agrees to and shall accept Court appointments hereunder to represent indigent persons up to a maximum of **one hundred forty (140) total case equivalents per calendar year** (which, on a quarterly basis, equates to **thirty-five (35) case equivalents per calendar-year quarter**). The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the quarter in which a case equivalent is to be counted hereunder.

Provided that, during the first, second, and/or third quarters of each calendar year during the term of this Agreement, Attorney agrees to and shall accept Court appointments hereunder that exceed the above-stated quarterly numerical case equivalent maximums for the first, second, and/or third quarters of the calendar year. At Attorney's discretion, however, Attorney may elect to accept Court appointments during the fourth quarter of a calendar year that exceed the above-stated annual numerical case equivalent maximum of one hundred forty (140) total case equivalents.

Provided further that, in the event that Attorney's court appointments hereunder are less than the above-stated numerical case equivalent maximums during any of the first three (3) quarters of the calendar year, the difference between the maximum number and the actual number of case equivalent appointments received by Attorney during any such quarter(s) shall be added to the quarterly maximum of case equivalent appointments for the next following quarter. For example, in the event that Attorney only received twenty-five (25) case equivalent appointments during the second quarter of a calendar year, Attorney shall be obligated to accept a total of forty-five (45) case equivalent appointments during the ensuing third quarter of that calendar year without receiving any additional compensation therefore. In certain instances, however, Attorney may be entitled to receive additional compensation (as specified in paragraph 17 below) if and when Attorney's appointments hereunder exceed the above-stated and applicable numerical case equivalent maximums.

8. **CASE EQUIVALENTS.** For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement, the following provisions shall apply:

- (a) An appointment to a felony matter in Franklin County Superior Court shall be counted as being one (1) case equivalent.
- (b) An appointment to any other matter in Franklin County Superior Court including, without limitation, any violation of a sentencing condition (e.g., probation violation, show cause on S.R.A. sentence, etc.), civil contempt, and material witness matters, shall be counted as being a one-third ($1/3^{\text{rd}}$) case equivalent.

- (c) An appointment to a felony or non-felony matter in Franklin County District Court shall be counted as being a one-half ($\frac{1}{2}$) case equivalent; provided that, if the matter is filed in Franklin County Superior Court, it shall not be counted as a case equivalent under this subparagraph (c), but rather it shall be counted as a case equivalent under subparagraphs (a) or (b) above, as applicable. An appointment in Franklin County District Court for probation violation, civil contempt, or material witness matter shall be counted as being a one-third ($\frac{1}{3}^{\text{rd}}$) case equivalent; provided that, if the same material witness matter is filed in Franklin County Superior Court, it shall only be counted a single time.
- (d) An appointment to any matter in which Attorney is initially appointed but withdraws prior to the omnibus hearing for any reason (including, without limitation, substitution of retained counsel or conflict of interest) shall not count as any type of case equivalent.
- (e) 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 court and Attorney continues representing the same person in such matter (e.g., if Attorney was appointed to represent a person on a felony charge who fails to appear for trial, 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 and shall count as a one-third ($\frac{1}{3}^{\text{rd}}$) case equivalent.
- (f) An appointment involving a seventy-two (72) hour hold shall not count as any type of case equivalent.
- (g) Except as may be otherwise 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.

Throughout the term of this Agreement, the Franklin County Superior Court Clerk and the Franklin County District Court Clerk shall each keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. Said Court clerks shall provide copies of such records to the County and the Benton-Franklin County Superior Court Administrator on a monthly basis. Attorney shall have the burden of proof in the event that Attorney disagrees with any such records.

9. **CLIENT ELIGIBILITY.** The Court, consistent with applicable laws, rules and standards, shall solely determine the eligibility of any particular person for representation by Attorney under this Agreement. If Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive such publicly-provided representation under the standards established by the Court, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Court of such possibility for purposes of the Court taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Court then 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 his/her 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 Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in a criminal action in which Attorney has not been appointed by the Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the 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 make the Court aware of such development

for purposes of the Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed by the Court to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of relevant law, appropriate communication with the client, review of potential plea alternatives, and the preparation for and appearance on behalf of the client in all stages of court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing proceedings, appeals (including 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.

Attorney shall open, compile and maintain an appropriate case file for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such file in its entirety (or a complete and legible copy thereof) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded.

12. **TELEPHONE CONSULTATIONS.** In addition to providing legal services in the Court-appointed matters set forth in paragraph 5 above, Attorney shall be reasonably available to accept telephone calls from persons in custody on a felony matter who are legally entitled to make such calls under any applicable state and/or federal laws or rules. Attorney understands and acknowledges that all law enforcement agencies enforcing felony violations within the jurisdiction of the County and its Courts are legally required to maintain a list containing the names and telephone numbers of all attorneys who have contracted with the County to accept court appointments to represent indigent persons and that such list is legally required to be made available to all persons in custody requesting to speak with legal counsel. Attorney further understands and acknowledges that an indigent person's legal right to defense counsel cannot be limited by the normal office and working hours of court-appointed attorneys and that, accordingly, it may be necessary on occasion for Attorney to accept telephone calls from persons in custody during non-business hours.

If the County continues to maintain a collect-call telephone system for calls made from the County jail, the County shall reimburse the Attorney on a quarterly basis for any actual documented and specifically-identified expense incurred by Attorney in receiving any such collect calls.

Attorney shall provide any necessary legal services and representation to those persons in custody who contact and consult with Attorney via telephone

during any proceedings required by applicable law or court rule. If and when the Court subsequently determines that any such person is eligible to receive Court-appointed counsel and Attorney is appointed by the Court to represent such person, Attorney shall continue to represent such person during and in all matters and proceedings set forth in paragraph 5 above.

13. **TELEPHONE NUMBERS AND NOTICES.** Attorney shall provide written notice to the following-listed persons and agencies that sets forth Attorney's office telephone number and Attorney's home telephone number or such other number(s) where Attorney may be regularly and generally contacted via telephone for purposes of this Agreement:

TO: Franklin County Board of Commissioners
Franklin County Courthouse
1016 N. Fourth Ave.
Pasco, WA 99301

TO: Franklin County Prosecuting Attorney
Franklin County Courthouse
1016 N. Fourth Ave.
Pasco, WA 99301

TO: Franklin County Superior Court
c/o Court Administrator
7320 W. Quinault
Kennewick, WA 99336

TO: Franklin County Superior Court Clerk
Franklin County Courthouse
1016 N. Fourth Ave.
Pasco, WA 99301

TO: Franklin County District Court Clerk
Franklin County Courthouse
1016 N. Fourth Ave.
Pasco, WA 99301

TO: Franklin County Sheriff
Franklin County Courthouse
1015 Fifth Avenue
Pasco, WA 99301

TO: Pasco Chief of Police
Pasco Police Department
Pasco City Hall
525 N. 3rd Ave.
Pasco, WA 99301

TO: Connell Chief of Police
Connell Police Department
Connell City Hall
Connell, WA 99326

TO: Commander of the Washington State Patrol
Kennewick Detachment
Route 7, Box 12450
Kennewick, WA 99337

Attorney shall also provide the above-described written notice to any other law enforcement agency designated to Attorney in writing by the Courts. Attorney shall provide the above-described notice and information to the above-listed and designated recipients immediately upon entering into this Agreement and shall subsequently provide immediate written notice of any and all changes to such information to all such recipients.

A telephone number for Attorney that reaches an answering/message service or a recorded message or answering machine does not comply with the requirements of this paragraph unless the answering/message service is actually capable of putting the person calling in immediate contact with Attorney.

14. MONTHLY BASE COMPENSATION. As base compensation for Attorney's performance and rendering of services hereunder, the County shall pay Attorney the sum of **\$5,693.16 per month.**

Attorney acknowledges and agrees that the above-stated monthly payments to Attorney shall immediately cease in the event that this Agreement is terminated for any reason prior to the termination date specified in paragraph 1 above. For example, if this Agreement is subsequently terminated effective August 31, 2006, the above-stated \$5,693.16 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-owing and unpaid amounts for services rendered hereunder prior to such termination date.

Attorney acknowledges and agrees that the above-stated compensation amount is reasonable and equitable and that (exclusive of the below-described additional compensation Attorney would be entitled to receive for homicide and/or

sexually violent predator cases) such compensation shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney during the term of this Agreement up to the above-stated annual maximum total of one hundred forty (140) case equivalents.

15. **HOMICIDE CASE COMPENSATION.** Attorney shall receive additional compensation for appointments to homicide cases in any degree (exclusive of capital cases) at the rate of \$60.00 per hour up to a maximum aggregate amount of \$7,500.00 per case. Attorney shall receive additional compensation for homicide capital cases at the rate of \$65.00 per hour (or at the rate of \$75.00 per hour if Attorney has obtained capital case certification from either the Court and/or the Washington Supreme Court pursuant to Washington State Superior Court Special Proceedings Criminal Rule 2 (as now existing or hereafter amended)) up to a maximum aggregated amount of \$30,000.00 per case (or such greater aggregated amount as may be specifically approved by the Court in a particular case).

Payment of any such additional compensation is based on time expended by Attorney only. Time expended by other persons (including, without limitation, Attorney's support staff, law partners, or associate attorneys) on such cases at Attorney's request or direction shall be part of Attorney's office overhead and shall not be billable to the County.

As a precondition to Attorney being paid the above-mentioned additional compensation for a homicide case, Attorney shall be required to submit a payment voucher to the County that descriptively sets forth and details the total number of hours (documented and stated in one-tenth (1/10th) hour intervals) expended by Attorney on such case and that further describes and details the particular actions taken by Attorney on such case that correspond to such expended and billed hours (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the Court). Attorney's administrative time expended to prepare and submit such vouchers shall not be billable to the County. All payment vouchers and requests for additional compensation under this paragraph shall be subject to the Court's review and final approval for payment. Attorney shall submit such payment vouchers to the County within sixty (60) days of the date on which Attorney expended time for which additional compensation is sought under this paragraph, 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.

16. **SEXUALLY VIOLENT PREDATOR CASE COMPENSATION.** Attorney shall receive additional compensation for appointments to sexually violent predator cases under RCW Chapter 71.09 *et seq.* at the rate of \$65.00 per hour; provided that, the hourly rate payable to Attorney for services actually rendered in such cases outside of the Tri-Cities area (e.g., to attend hearings in western

Washington) shall be at such higher rate as negotiated and agreed to by Attorney and the County on a case-by-case basis; and provided further that, the County shall be entitled to receive and retain any and all reimbursement paid by the state of Washington for such cases.

Payment of any such additional compensation is based on time expended by Attorney only. Time expended by other persons (including, without limitation, Attorney's support staff, law partners, or associate attorneys) on such cases at Attorney's request or direction shall be part of Attorney's office overhead and shall not be billable to the County.

As a precondition to Attorney being paid the above-mentioned additional compensation for a sexual predator case, Attorney shall be required to submit a payment voucher to the County that descriptively sets forth and details the total number of hours (documented and stated in one-tenth (1/10) hour intervals) expended by Attorney on such case and that further describes and details the particular actions taken by Attorney on such case that correspond to such expended and billed hours (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the Court). Attorney's administrative time expended to prepare and submit such vouchers shall not be billable to the County. All payment vouchers and requests for additional compensation under this paragraph shall be subject to the Court's review and final approval for payment. Attorney shall submit such payment vouchers to the County within sixty (60) days of the date on which Attorney expended time for which additional compensation is sought under this paragraph, 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.

17. **ADDITIONAL COMPENSATION.** In the event Attorney's total case equivalents for appointments under this Agreement exceed the maximum totals set forth and discussed in paragraph 7 above, Attorney shall be entitled to receive additional compensation for each appointment that exceeds the maximum case equivalent totals as follows:

- | | | |
|-----|--|------------------------------------|
| (a) | Criminal filings in Franklin County
Superior Court | \$400/\$750
(if trial required) |
| (b) | All other matters in Franklin County
Superior Court | \$150 |
| (c) | Criminal filings disposed of in Franklin
County District Court (provided that
there shall be no compensation for any | |

district court filing that is subsequently
filed in Franklin County Superior Court). \$200

(d) All other matters in Franklin County
District Court \$100

Within sixty (60) days of Attorney becoming entitled to receive additional compensation under this paragraph, Attorney shall submit a payment voucher to the County that specifically references and identifies each excess appointment that serves as the basis for additional compensation and the exact amount of additional compensation being requested as a result thereof. Upon receipt of such payment voucher from Attorney, the County, assuming it does not dispute such payment voucher, shall pay the additional compensation to Attorney within sixty (60) days thereafter. Provided that, notwithstanding the above, the County shall have the right to deny payment of any voucher for additional compensation under this paragraph that is not timely submitted to the County within the above-stated requisite sixty (60) day period.

18. **COSTS AND EXPENSES.** Both parties recognize that in certain circumstances the need may arise for Attorney to incur certain out-of-pocket expenses for indigent defense-related items such as, without limitation, private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of travel, meals and lodging.

Attorney shall be entitled to receive reimbursement for the actual cost of such 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 Court order that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rule(s). Such order 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 indigent defense-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that the County would be obligated to pay and reimburse to its employees under the County's then-existing employee travel-related policies and rules.

In addition to any other prerequisites imposed by court rule(s), as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a payment voucher to the County that descriptively identifies the specific expenditure(s) for which reimbursement is

sought and that has attached thereto a copy of the Court order(s) that specifically pre-approved and authorized such expenditure(s) together with attached copies of all written payment receipts relating to such incurred expenditure(s). 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 County 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.

19. **ADDITIONAL ASSISTANCE.** The parties recognize that Attorney may from time-to-time be appointed to handle certain Class-A felony matters hereunder in Franklin County Superior Court that may require an extraordinarily excessive amount of Attorney's time and/or responsibility. If Attorney is appointed to handle such a matter, Attorney may request that the Court appoint one (1) of the other three (3) Indigent Defense Panel attorneys to assist Attorney in such matter, with the other attorney (unless prevented by a conflict of interest) being appointed to assist Attorney in the same manner as any other criminal indigent defense appointment. The parties intend that the provisions of this paragraph may be pursued and utilized only under extremely extraordinary and exceptional circumstances when the appointment of another attorney is actually necessary to prevent Attorney from performing an inordinately greater amount of work or accepting an inordinately greater amount of responsibility than the other three (3) members of the Indigent Defense Panel.

20. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney hereby agrees to and shall fully indemnify the County and hold the County, its representatives, officers, employees, and agents fully harmless 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, 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 the terms of this Agreement. In the event any suit or legal proceeding is brought against the County or any of its 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 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 representatives, officers, employees or agents in such suits or other legal proceedings. The indemnification and hold harmless provisions of this paragraph shall survive the termination of this Agreement.

21. **INSURANCE.** Throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to perform services or duties hereunder, Attorney shall obtain and continuously maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount **not less than \$500,000.00 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 \$5,000.00.** Said policy shall include coverage as an additional insured for any other attorney(s) acting for or on behalf of Attorney in the performance of this Agreement. Said policy shall provide professional liability insurance coverage for any errors and/or omissions by Attorney during the course of performing legal services under this Agreement, and shall further 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. Said policy shall also comply with all applicable state of Washington insurance requirements and shall be issued by an insurance company authorized to conduct business and issue insurance in the state of Washington. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated and acting Risk Manager with written proof and confirmation that such insurance policy and coverage has been obtained and Attorney shall provide the Risk Manager with annual written proof and confirmation that such insurance policy and coverage continues to exist no later than by January 15th of each year during the term of this Agreement.

22. **CLIENT COMPLAINTS; PERFORMANCE MONITORING.** In the event the Franklin County Superior Court Clerk and/or the Franklin County District Court Clerk receive an oral or written communication from a defendant represented by Attorney under this Agreement that in substance asserts a complaint over the quality or timeliness of the legal defense services rendered to such defendant by Attorney, the Clerk shall request and obtain a written, signed, and dated complaint from the defendant that specifically describes and details the relevant alleged facts and circumstances underlying the defendant's asserted complaint, whereupon the Clerk shall promptly provide the County with a copy of such written complaint. Upon receiving such complaint from the Clerk, the County, without limitation to any other action it may deem necessary/appropriate to pursue under this Agreement, shall forward a copy of the complaint to Attorney and request and obtain Attorney's written response thereto (which Attorney shall promptly prepare and provide), whereupon the County shall forward copies of the complaint and Attorney's response to the Court for purposes of the Court reviewing such documentation and implementing any necessary/appropriate action with Attorney and/or the defendant to address and resolve the complaint.

Additionally, during the term of this Agreement, the County reserves the right and discretion to periodically ask the Court and/or the Court Clerk to provide the County with a written evaluation/assessment of the quality of Attorney's performance of indigent defense services and related duties and obligations under

this Agreement. The County may (but shall not be obligated to) provide Attorney with notice of request/obtainment of such evaluation/assessment and/or with a copy of such evaluation/assessment.

23. **TERMINATION.** In the event that the Court enters an order that prohibits or disqualifies Attorney from receiving any further Court 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 or 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 fully liable to the County for any additional costs or expenses incurred by the County relating to such substitute appointment(s) in addition to any other damages sustained by the County arising out of Attorney's conduct and breach.

In addition to the automatic termination provisions above, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any material provision of this Agreement by giving Attorney ten (10) days advance written notice of termination, which notice shall specify the reason(s) for the termination. 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.

In addition to the above provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with no less than ninety (90) days advance written notice of such election.

In any event, consistent with the provisions of paragraph 14 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 by the County for all services duly performed by Attorney under this Agreement up to the date of termination. Further, 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 date of termination unless Attorney is expressly barred or prohibited from doing so by Court order.

24. **INDEPENDENT CONTRACTOR.** The parties understand, acknowledge, and agree that Attorney is not an employee of the County and that Attorney, as of the date of this Agreement and throughout its entire term, is and will be acting and operating as a fully independent contractor. In that regard, the

County shall have no authority or duty to directly control or supervise the direct performance of Attorney's duties or services hereunder, which control and supervisory capacity is fully and ultimately vested within the inherent power and discretion of the Court.

25. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise provided for below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney be entitled to assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or and obligations under this Agreement.

Provided that, however, Attorney and any of the other three (3) Indigent Defense Panel attorneys may mutually agree to make temporary, substitute appearances for each other on routine criminal docket matters and routine court hearings on an as-needed basis provided that Attorney is actually and unavoidably unavailable and provided that such 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. Any compensation or consideration (if any) to be paid or given by Attorney to the other Indigent Defense Panel attorneys for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and the other Indigent Defense Panel attorneys, and said other attorneys shall not be entitled to receive any additional compensation from the County for such substitution(s).

Provided further that, however, in the event that Attorney needs or desires to take up to a maximum of four (4) consecutive weeks leave of absence from the practice of law during the term of this Agreement and is unable to obtain the assistance of the other Indigent Defense Panel attorneys during such temporary absence, Attorney may seek and obtain the assistance of another attorney to make temporary, substitute appearances for Attorney during such absence on routine criminal 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 County) 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 defense 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.

Any compensation or consideration (if any) to be paid or given by Attorney to such other non-panel attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s). Attorney acknowledges and agrees that Attorney

shall be strictly 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 21 above) and that Attorney shall be strictly liable for any and all damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

26. **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 it deems appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in performing indigent criminal defense services.

27. **OTHER APPOINTMENTS.** Except for the Court appointments expressly contemplated and provided for in this Agreement, Attorney shall not enter into any other contract/agreement/arrangement to receive appointments from any other court to perform public defense or prosecution services.

28. **JUDICIAL SERVICE.** Attorney shall not serve in any judicial capacity (including judge pro tem or court commissioner) in or for any court located within the County on any matter. Further, Attorney shall not serve in any judicial capacity (including judge pro tem or court commissioner) in any case in which the County is a party or in any case in which the state of Washington is a party and is represented by the County's Prosecuting Attorney's Office or an appointed special deputy of such office.

29. **AGREEMENT TO RE-NEGOTIATE.** In the event that Attorney's annual appointments and resulting case equivalent totals hereunder amount to seventy-five percent (75%) or less of the above-stated one hundred forty (140) annual maximum case equivalent totals for any calendar year during the term of this Agreement, the parties agree that, at the County's request, they will negotiate in good faith an equitable and appropriate reduction in the amount of Attorney's monthly base compensation for the following calendar year. In the event that the parties fail to reach a negotiated and agreed reduction in the amount of Attorney's monthly base compensation, the issue will be resolved by the parties pursuant to the provisions of paragraph 36 below.

30. **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. Any new statutory requirement, court rule, and/or appellate court decision relating to indigent criminal defense services effective subsequent to the effective date of this Agreement shall be subject to further negotiation and agreement between the parties.

31. **CAPTIONS.** 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.

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

33. **BINDING EFFECT.** Strictly subject to the above restriction against assignment, this Agreement shall be binding upon Attorney's heirs, legal representatives, successors, and assigns.

34. **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.

35. **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.

36. **DISPUTE RESOLUTION.** 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 parties shall equally share and pay the mediator's fees and expenses.

In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration in the Tri-Cities, Washington. 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. Each party to the action shall be responsible for the payment of one-half of the fees and expenses of the arbitrator(s). The provisions of RCW Chapter 7.04 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) days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in

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 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.

37. **NOTICE TO PARTIES.** Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be personally delivered to the County's Board of Commissioners or mailed to the County's Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's address specified and set forth in paragraph 13 above. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2 above.

Further, for purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

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


Samuel P. Swanberg, Attorney at Law

Date: 3-30-2006

**Franklin County, Washington, a
municipal corporation**

By: 

Neva J. Corburn

Chair/Member

Board of County Commissioners

By: 

Robert E. Koch

Chair Pro Tem/Member

Board of County Commissioners

By: 

Frank H. Brock

Member

Board of County Commissioners

ATTEST:


Clerk of the Board

Signed and dated this 12th day of
APRIL, 2006.

FRANKLIN COUNTY RESOLUTION NO. 2006 194

BEFORE THE BOARD OF COUNTY COMMISSIONERS, FRANKLIN COUNTY,
WASHINGTON

**RE: AUTHORIZING REIMBURSEMENT IN THE AMOUNT OF \$64.86 TO
THE WSU / FRANKLIN COUNTY COOPERATIVE EXTENSION
OFFICE FOR THE PURCHASE OF THREE SPANISH FOR GRINGOS
BOOKS**

WHEREAS, the WSU Extension Director requested approval for the Commissioners Office to purchase three Spanish for Gringos books to be used in the Spanish Conversation Group sessions; and

WHEREAS, said books will be checked out to county employees interested in learning Spanish; and

WHEREAS, The Bookworm offered a 20% discount; and

WHEREAS, the Board of Franklin County Commissioners gave approval during the March 29, 2006 Commissioners' Proceeding for procurement of three sets;

NOW, THEREFORE, BE IT RESOLVED the Franklin County Board of Commissioners hereby authorizes reimbursement from the Non-Departmental Budget, Number 001-000-700, line item 519.90.31.0000 (Office Supplies) for use of petty cash from the Commissioners Office in the amount of \$64.86, paid to the WSU / Franklin County Cooperative Extension Office for the purchase of three Spanish for Gringos books.

APPROVED this 12th day of April 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk to the Board

Originals: Auditor
Minutes
Commissioners Office

cc: Accounting
WSU Extension

276314

THE BOOKWORM
1908-D GEO. WASH. WAY
RICHLAND, WA 99352
CUSTOMER'S ORDER NO. (509) 946-0898 DEPARTMENT

DATE 4/7/06

NAME

ADDRESS

CITY, STATE, ZIP

SOLD BY

CASH

C.O.D.

CHARGE

ON ACCT.

MDSE RETD

PAID OUT

QUANTITY

DESCRIPTION

PRICE

AMOUNT

1 15 Spanish for Gingers 24.95 374.25

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

RECEIVED BY



THE BOOKWORM
THANK YOU

04/10/2006 11:33AM 25
000000#4685 CLERK25

foreign lang 11 \$299.40
MDSE ST \$299.40
TAX1 \$24.85

ITEMS 10
CHECK \$324.25

Paid for love
Vicki Conner

KEEP THIS SLIP FOR REFERENCE
ORIGINAL

- discount = \$19.96 each
+ 1.66 tax
\$21.62 total

3 books purchased by County Commissioners
for use by County employees (\$64.86)

FRANKLIN COUNTY RESOLUTION NO. 2006 195

BEFORE THE BOARD OF COUNTY COMMISSIONERS, FRANKLIN COUNTY,
WASHINGTON

**RE: SURPLUS PROPERTY – DISPOSAL OF SIX ROOF TRUSSES
ASSIGNED TO TRAC**

WHEREAS, the Board of Franklin County Commissioners received a *Franklin County Storage – Salvage* form from the TRAC Manager requesting disposal and salvage of six roof trusses; and

WHEREAS, the county legislative authority has no further public notice requirement pursuant to R.C.W. 36.34.020, because the property to be disposed is valued at less than two thousand five hundred dollars; and

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and deems this to be in the best interest of Franklin County;


NOW, THEREFORE, BE IT RESOLVED the Franklin County Board of Commissioners hereby approves the disposal of four double and two single roof trusses as identified on the *Franklin County Storage – Salvage* form received from TRAC, in conjunction with RCW 36.32.210 (inventory).

APPROVED this 12th day of April 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk to the Board

Originals: Auditor
Minutes
Maintenance

cc: Accounting
TRAC

April 12, 2006

EXHIBIT 4

FRANKLIN COUNTY STORAGE - SALVAGE

DATE: April 10, 2006

REQUESTED BY: Troy Woody

DEPT: TRAC

DESCRIPTION OF ITEM(S):

DEPT NUMBER:

PHONE #: 543-2999

6 Roof Trusses Total
4 Double Trusses
2 Single Trusses

AUTHORIZED BY: Troy Woody

RECEIVED BY:

SERIAL #:

DATE RECEIVED:

DATE CLOSED:

CHECK ONE OF THE FOLLOWING:

SALVAGE



STORAGE



DESTROY



2006 195

April 12, 2006

Franklin County Commissioners:

Vouchers audited and certified by the auditing officer by RCW 42.24.080, expense reimbursement claims certified by RCW 42.24.090, have been recorded on a listing, which has been sent to the board members.

Action: As of this date, 04/12/2006
move that the following warrants be approved for payment.

FUND	WARRANT	AMOUNT
Salary Clearing Payroll:		
	39879-40009	173,410.91
	40010-40016	51,806.45
	Direct Deposit	228,690.51
	Total	\$453,907.87

In the amount of \$ **453,907.87** . The motion was seconded by
and passed by a vote of **3 to 0** .


Emergency Mgmt Payroll:

7884-7890	\$3,050.80
7891-7894	1,089.36
Direct Deposit	7,429.45
Total	\$11,569.61

Irrigation Payroll:

11611-11625	\$8,422.78
11626-11629	\$1,103.05
Direct Deposit	0.00
Total	\$9,525.83

FY 2006 Claims estimated at 20% to 35% complete.

Funding WG (3/14/05)

Central Network (Combined)

Central Network (KIDS)

Western Network (KIDS)

Central Network (ADULT)

Western Network (ADULT)

FRANKLIN COUNTY RESOLUTION NO. 2006 196

BEFORE THE BOARD OF COUNTY COMMISSIONERS, FRANKLIN COUNTY,
WASHINGTON

**RE: RESCIND FRANKLIN COUNTY RESOLUTION 94-072 WHICH ESTABLISHED
A PETTY CASH FUND TO HANDLE OVERAGES AND SHORTAGES FOR
THE TREASURERS OFFICE**

WHEREAS, the Franklin County Treasurer notified the Board of Commissioners that the petty cash fund to handle overages and shortages will no longer be needed; and

WHEREAS, Resolution 94-072 established this petty cash fund in the amount of \$100; and

WHEREAS, the amount in the petty cash fund for overages and shortages amounted to \$276.40; and

WHEREAS, this amount was deposited to the Treasurer's Current Expense Budget, Number 001-000-650, line item 369.81.00.0000 (Overages/Shortages) on March 24, 2006; and

WHEREAS, by rescinding Resolution 94-072, subsequent overages and shortages would be reported as per the Budgeting, Accounting and Reporting System (BARS) for Cities and Counties and other Local Governments (Category 1) to revenue code 369.80 – Overages/Shortages;

NOW, THEREFORE, BE IT RESOLVED the Franklin County Board of Commissioners hereby rescinds Resolution 94-072.

APPROVED this 12 day of April 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk to the Board

Originals: Auditor
Minutes
Treasurer

cc: Accounting

Clerk's Note: Resolution 2006-197 was rescinded by
Resolution 2006-240 on May 8, 2006.

FRANKLIN COUNTY RESOLUTION NO. 2006 197

**BEFORE THE BOARD OF COUNTY COMMISSIONERS,
FRANKLIN COUNTY, WASHINGTON**

**RE: LOCAL AGENCY AGREEMENT LA 5954, SUPPLEMENT NUMBER 1 BETWEEN
FRANKLIN COUNTY AND WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION (WSDOT) FOR CRP 586 – WERNETT ROAD PHASE II.**

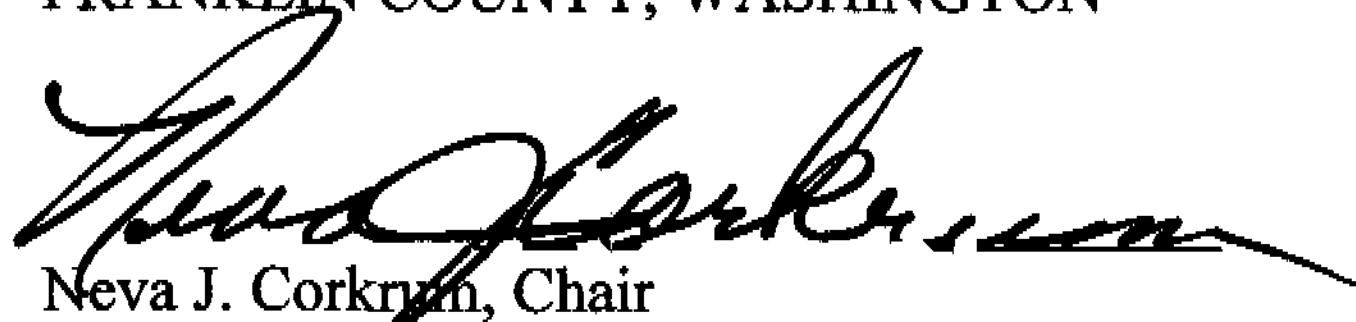
WHEREAS, pursuant to RCW 36.01.010 and RCW 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the county and have the care of county property and management of county funds and business; and

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into the attached agreement as being in the best interest of Franklin County.

NOW, THEREFORE, BE IT RESOLVED that the attached agreement between Franklin County and WSDOT is hereby approved by the Board.

APPROVED this 12th day of April, 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk of the Board



Washington State
Department of Transportation

Local Agency Agreement Supplement

Agency

Franklin County Public Works

Supplement Number

1

Federal Aid Project Number

STPUS-3572(007)

Agreement Number

LA 5954

CFDA No. 20.205

(Catalog of Federal Domestic Assistance)

The Local Agency desires to supplement the agreement entered into and executed on Aug. 2, 2005

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

Project Description

Name Wernett Road Phase II

Length 0.13

Termini Milepost 1.64 to Milepost 1.77

Description of Work ☒ No Change

Reason for Supplement

To increase funds for higher than expected Preliminary Engineering costs, and requesting Right of Way funding for projected costs.

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE 86.5 % Federal Aid Participation Ratio for PE	a. Agency	13,000.00	10,000.00	23,000.00	3,105.00	19,895.00
	b. Other					
	c. Other					
	d. State	2,000.00		2,000.00		
	e. Total PE Cost Estimate (a+b+c+d)	15,000.00	10,000.00	25,000.00	3,105.00	19,895.00
Right of Way % Federal Aid Participation Ratio for RW	f. Agency		28,290.00	28,290.00	3,819.15	24,470.85
	g. Other					
	h. Other					
	i. State		2,000.00	2,000.00	270.00	1,730.00
	j. Total R/W Cost Estimate (f+g+h+i)		30,290.00	30,290.00	4,089.15	26,200.85
Construction % Federal Aid Participation Ratio for CN	k. Contract					
	l. Other					
	m. Other					
	n. Other					
	o. Agency					
	p. State					
	q. Total CN Cost Estimate (k+l+m+n+o+p)					
	r. Total Project Cost Estimate (e+j+q)	15,000.00	40,290.00	55,290.00	7,194.15	46,095.85

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

Washington State Department of Transportation

By

By

Title Chair, Franklin county Board of Commissioners

Assistant Secretary for Highways and Local Programs

April 12, 2006

Date Executed

2006 198

FRANKLIN COUNTY RESOLUTION NO.

BEFORE THE BOARD OF COUNTY COMMISSIONERS,
FRANKLIN COUNTY, WASHINGTON

**RE: LOCAL AGENCY AGREEMENT BETWEEN FRANKLIN COUNTY AND
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT) FOR
CRP 590 – COMMERCIAL/TANK FARM ROAD PRE-DESIGN.**

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 Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into the attached agreement as being in the best interest of Franklin County.

NOW, THEREFORE, BE IT RESOLVED that the attached agreement between Franklin County and WSDOT is hereby approved by the Board.

APPROVED this 12th day of April, 2006.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member

Attest:


Clerk of the Board



**Washington State
Department of Transportation**

Local Agency Agreement

Agency Franklin County Public Works
Address 3416 Stearman Avenue
Pasco, WA 99301-7104

CFDA No. 20.205

(Catalog of Federal Domestic Assistance)

Project No.

STPUS-G111(001)

Agreement No.

LA 6102

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102, A-87 and A-133, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name CRP 590 - Commercial / Tank Farm Road Pre-Design

Length N/A

Termini N/A

Description of Work

The proposed work shall consist of the analysis of the affects of a potential interchange, to be located on US12 between Lewis Street I/C and the Snake River, on ingress/egress to US12 and local roadway configurations, and the planning and pre-design of the future Commercial/Tank Farm Road. The work shall include a Needs Study, coordination with WSDOT and City and County Planning staff, Public Involvement, and a Location Study.

		Estimate of Funding		
Type of Work		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE 86.5 % Federal Aid Participation Ratio for PE	a. Agency	75,000.00	10,125.00	64,875.00
	b. Other			
	c. Other			
	d. State	2,000.00	270.00	1,730.00
	e. Total PE Cost Estimate (a+b+c+d)	77,000.00	10,395.00	66,605.00
Right of Way % Federal Aid Participation Ratio for RW	f. Agency			
	g. Other			
	h. Other			
	i. State			
	j. Total RW Cost Estimate (f+g+h+i)			
Construction % Federal Aid Participation Ratio for CN	k. Contract			
	l. Other			
	m. Other			
	n. Other			
	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)			
	r. Total Project Cost Estimate (e+j+q)	77,000.00	10,395.00	66,605.00

Agency Official

By

Title Chair, Franklin County Board of Commissioners

April 12, 2006

Washington State Department of Transportation

By

Assistant Secretary for Highways and Local Programs

Date Executed

MAY 25 2006

Construction Method of Financing (Check Method Selected)**State Ad and Award**

- ☐ Method A - Advance Payment - Agency Share of total construction cost (based on contract award)
- ☐ Method B - Withhold from gas tax the Agency's share of total construction cost (line 4, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

- ☒ Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

, Resolution/Ordinance No.

Provisions**I. Scope of Work**

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

In the event that right of way acquisition, or actual construction of the road, for which preliminary engineering is undertaken is not started by the closing of the tenth fiscal year following the fiscal year in which the agreement is executed, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Transportation Equity Act for the 21st Century (TEA 21), as amended, and Office of Management and Budget circulars A-102, A-87 and A-133. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless an indirect cost plan has been approved by WSDOT.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project.

The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and Office of Management and Budget Circular A-133.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal Office of Management and Budget (OMB) Circular A-133 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$500,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of OMB Circular A-133. Upon conclusion of the A-133 audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed the Assistant Secretary for Highways and Local Programs.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal 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) 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 federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such 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. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Additional Provisions



Local Agency Federal Aid
Project Prospectus

Federal Aid Project Number	STPR	Route	()	Date	4-12-2006
Local Agency Project Number	CRP 590	(WSDOT Use Only)		Federal Employer Tax ID Number	91-6001315
Agency	Franklin County Public Works	Federal Program Title	<input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> 20.209 <input type="checkbox"/> Other		
Project Title	Commercial / tank Farm Road Pre-Design	Start Latitude	N	Start Longitude	W
		End Latitude	N	End Longitude	W
Project Termini From	N/A	To	N/A		
From:	To:	Length of Project	Award Type		
N/A	N/A	N/A	<input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad		
Federal Agency	<input checked="" type="checkbox"/> FHWA <input type="checkbox"/> Others	City Number	County Number	County Name	WSDOT Region
		N/A	11	Franklin	SC
Congressional District	Legislative Districts	Urban Area Number	TMA / MPO / RTP	BFCOG	
4	16	4			

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date Month Year
P.E.	\$77,000	\$10,400	\$66,600	06/2006
R/W				
Const.				
Total	\$77,000	\$10,400	\$66,600	

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width N/A Number of Lanes N/A

There Has been several planning studies to identify the need for a potential interchange to be located on US 12 between Lewis Street and the Snake River. Most recently, September 2002, WSDOT conducted an evaluation of interchange configurations to establish a preliminary location and type of I/C. This evaluation established the easterly and westerly limits along US 12 in which an interchange could be located.

Description of Proposed Work

☐ New Construction ☐ 3-R ☐ 2-R Roadway Width N/A Number of Lanes N/A

The proposed work shall consist of the analysis of the affects of a potential interchange, to be located on US12 between Lewis Street I/C and the Snake River, on ingress/egress to US12 and local roadway configurations, and the planning and pre-design of the future Commercial/Tank Farm Road. The work shall include a Needs Study, coordination with WSDOT and City and County Planning staff, Public Involvement, and a Location Study.

Local Agency Contact Person
Tim Fife, P.E.
Mailing Address
3416 Stearman Ave.

Title
Public Works Director / County Engineer
City
Pasco
State
WA
Phone
(509) 545-3514
Zip Code
99301-7104

Design Approval

By


Approving Professional Engineer

Title Public Works Director / County Engineer Date 4-12-06

Agency
Franklin County Public Works

Project Title
Commercial / tank Farm Road Pre-Design

Date
4-12-2006

Geometric Design Data

Description

**Federal
Functional
Classification**

Through Route

☐ Urban

☐ Rural

☐ Principal Arterial
☐ Minor Arterial
☐ Collector

☐ Major Collector
☐ Minor Collector
☐ Access Street/Road

☐ Flat ☐ Roll ☐ Mountain

Crossroad

☐ Urban

☐ Rural

☐ Principal Arterial
☐ Minor Arterial
☐ Collector

☐ Major Collector
☐ Minor Collector
☐ Access Street/Road

☐ Flat ☐ Roll ☐ Mountain

Terrain

Posted Speed

Design Speed

Existing ADT

Design Year ADT

Design Year

Design Hourly Volume (DHV)

Accident - 3 Year Experience

Year	Property Damage Accidents	Injury Accidents		Fatal Accidents		Total Number of Accidents
		Number of Accidents	Number of Injuries	Number of Accidents	Number of Fatalities	

Performance of Work

Preliminary Engineering Will Be Performed By

Franklin County Public Works Department / Consultant

Construction Will Be Performed By

N/A

Others

Agency

75 %

25 %

Contract

Agency

%

%

Environmental Classification

☒ Final ☐ Preliminary

☐ Class I - Environmental Impact Statement (EIS)

☐ Project Involves NEPA/SEPA Section 404
Interagency Agreement

☐ Class III - Environmental Assessment (EA)

☐ Project Involves NEPA/SEPA Section 404
Interagency Agreement

☒ Class II - Categorically Excluded (CE)

☐ Projects Requiring Documentation
(Documented CE)

Environmental Considerations

This is a planning and preliminary engineering project only.

Agency
Franklin County Public Works

Project Title
Commercial / tank Farm Road Pre-Design

Date
4-12-2006

Right of Way

☒ No Right of Way Required

* All construction required by the contract can be accomplished within the existing right of way.

☐ Right of Way Required

☐ No Relocation

☐ Relocation Required

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

This is a planning and preliminary engineering project only.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project?

☐ Yes ☒ No

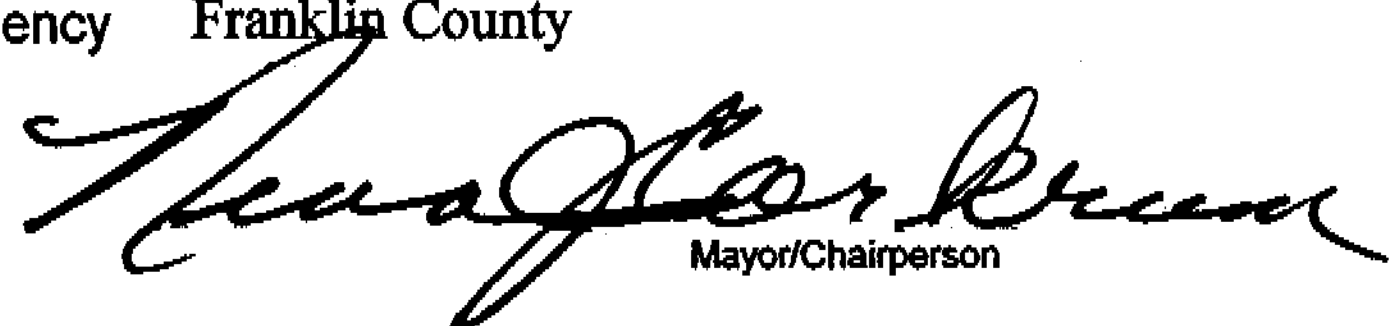
Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency Franklin County

Date 4-12-06

By


Mayor/Chairperson

Bridgette A. Scott

From: Jim Chase [CHASEJ@ci.pasco.wa.us]
Sent: Monday, April 10, 2006 10:47 AM
To: Steve Marks
Cc: fbowen@co.franklin.wa.us
Subject: Congratulations

Steve,

I recently was reviewing the March issue of the Property Tax Review newsletter. Franklin County was listed as one of 10 counties who have been timely in closing the assessment rolls and certifying assessed values to their Boards of Equalization for each of the last three years.

Congratulations for your hard work and due diligence.

I have had the pleasure of working with your office for a longer period of time than three years. You and your staff have always provided me with timely information as to property values for my work in preparing the annual budgets for the upcoming years.

I know for a fact that other cities have not had the luxury of timely valuation information.

Again, congratulations for a job well done and worthy of statewide notice.

Jim Chase

Finance Manager

City of Pasco

April 12, 2006

Neva J. Corkrum
District 1

Robert E. Koch
District 2

Frank H. Brock
District 3

Fred H. Bowen
County Administrator

Rosie H. Rumsey
Human Resources Director

Patricia L. Shults
Executive Secretary



Board of County Commissioners
FRANKLIN COUNTY

April 12, 2006

Western Real Estate Auction, LLC
31 West Eltopia Road
Eltopia WA 99330

Re: Letter of Intent to use Western Real Estate Auction

Gentlemen:

The Franklin County Board of Commissioners gives this letter of intent to Western Real Estate Auction, LLC, to sell six parcels of county property. Franklin County will reimburse Western Real Estate Auction, LLC, for their costs in preparing for the sale.

We intend to sign a contract with Western Real Estate Auction, LLC, as soon as the contract attachments are available.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Neva J. Corkrum, Chair


Robert E. Koch, Chair Pro Tem


Frank H. Brock, Member