

**AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED
INTERLOCAL AGREEMENT FOR BENTON COUNTY EMERGENCY SERVICES
FOR FUNDING AN ADDITIONAL COMMUNICATION SITE**

THIS AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT is made and entered into by and between the following entities (collectively, the "Parties"):

- Benton County, a political subdivision of the State of Washington;
- Franklin County, a political subdivision of the State of Washington;
- City of Kennewick, a Washington municipal corporation;
- City of Richland, a Washington municipal corporation;
- City of West Richland, a Washington municipal corporation;
- City of Prosser, a Washington municipal corporation;
- City of Benton City, a Washington municipal corporation;
- City of Pasco, a Washington municipal corporation;
- Benton County Fire Protection District Nos. 1, 2 and 4, all of which are Washington special purpose districts; and
- Public Utility District #1 of Benton County, a Washington special purpose district.

WHEREAS, several of the above-referenced entities were parties to a 2009 Interlocal Agreement to fund the acquisition of a digital 800MHz radio system to provide enhanced public safety communications; and

WHEREAS, since execution of that 2009 Interlocal Agreement, Franklin County, the City of Pasco and PUD #1 joined with the previously existing entities to participate in certain aspects of the operations of Benton County Emergency Services (BCES); and

WHEREAS, in 2018, the Parties executed a Second Amended and Restated Interlocal Agreement for Benton County Emergency Services (the "2018 Interlocal Agreement") to reflect the rights and responsibilities of all BCES participants; and

WHEREAS, for the past several years, BCES has been studying ways to improve coverage of the 800MHz system, and based on such studies Benton County has agreed to add one (1) communication site to be located on Red Mountain that will be integrated into BCES's existing simulcast system, and the necessary hardware, software, and services to upgrade the Golgotha ASTRO 25 Repeater site to integrate that communication site into the system; and

WHEREAS, Benton County will reimburse up to \$3,000,000 for costs incurred by BCES, by and through its Administrative Jurisdiction, to render the identified communication site initially operable; and

WHEREAS, Benton County will expend additional funds associated with the cost of constructing a County-owned access easement to the communication site terminating on a parcel agreed to by Benton County, provided BCES will not be reimbursed for such costs as Benton

County will directly incur and pay such costs for the easement, including acquisition, design, construction, and provision of utilities to the site (specifically electric); and

WHEREAS, the Parties enter into this Amendment No. 1 to set forth the financing and ownership terms with respect to the proposed additional communication site on Red Mountain.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with RCW 39.34.030 and Section 8 of the 2018 Interlocal Agreement for Benton County Emergency Services, the Parties agree to amend the 2018 Interlocal Agreement as follows:

1. Section 4.C. of the FINANCES section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

800MHz Fund. The 800MHz Fund shall be used for the maintenance and operation of any 800MHz radio system, whether analog or digital, utilized by BCES. The Executive Board is authorized to levy annual radio assessments upon all Parties who use radios under the 800MHz system, and to impose contract fees upon any contracting agencies for use of the same. Assessments shall be determined annually by the Executive Board for inclusion in the Parties' annual budgets. Assessments shall be paid in periodic installments on a schedule determined by the Executive Board. In the event an unforeseen exigent circumstance or uninsured civil judgment results in costs to the Organization in excess of the budgeted expenses for operation and administration of the 800MHz system, the Executive Board is authorized to proportionately levy, by percentage of the Parties' total 800MHz budget responsibility, additional fees to cover the unexpected liability. Such excess costs shall be promptly remitted, upon demand, to Benton County Emergency Services. If the cost overrun is attributable to a single agency's action or inaction, the entire cost overrun shall be borne by that agency.

In order to improve coverage of the 800MHz radio system maintained and operated by BCES in certain areas of unincorporated Benton County, one (1) communication site on Red Mountain will be constructed consisting of a trunked simulcast repeater; one (1) microwave; an equipment shelter; a tower; a generator; a fuel tank; and batteries (the "Communication Site"). To integrate the new Communication Site into the existing system, the Golgotha ASTRO 25 Repeater Site must be upgraded with certain hardware, software and services (the "Golgotha Upgrade"). To facilitate construction of the Communication Site and the Golgotha Upgrade, Benton County agrees to: 1) reimburse BCES, by and through its Administrative Jurisdiction, in an amount equal to the lesser of: a) Three Million Dollars (\$3,000,000); or b) the actual costs to purchase and install the Communication Site and Golgotha Upgrade; and 2) directly pay the costs of easement acquisition, design, and construction of a means of ingress and egress, along with provision of utilities (specifically electric) to a parcel agreed upon by Benton County on which the Communication Site will be located. All operational costs of the Communication Site shall be paid by the Parties hereto in the same manner as other operational costs paid from the 800MHz fund.

The Administrative Jurisdiction is responsible for compliance with applicable procurement laws respecting the purchase and installation of the Communication Site and Golgotha

Upgrade. Benton County is responsible for compliance with applicable procurement laws respecting the access easement to the Communication Site.

Benton County shall deposit One Million Dollars (\$1,000,000) into the 800MHz Fund within thirty (30) days of the full execution of this Amendment No. 1 to the 2018 Interlocal Agreement. The Administrative Jurisdiction will place the deposit in an interest bearing account, and interest will accrue to the benefit of BCES and may be expended on the Communication Site. Beginning on the thirtieth (30th) day after the initial deposit, and occurring every thirty (30) days thereafter until the Communication Site is completed, the Administrative Jurisdiction will send to Benton County a written summary of the expenses incurred for the purchase and installation of the Communication Site. Upon thirty (30) days written notice from the Administrative Jurisdiction that less than Two Hundred Fifty Thousand Dollars (\$250,000) of Benton County's deposited funds under this section remain in said account, Benton County will deposit another Two Hundred Fifty Thousand Dollars (\$250,000). The account will continue to be replenished by Benton County in this manner until \$3,000,000 in the aggregate has been deposited by Benton County, or BCES has been fully reimbursed, by and through its Administrative Jurisdiction, for the actual costs of the purchase and installation of the Communication Site and Golgotha Upgrade, whichever occurs first. Within thirty (30) days of release of retainage to the contractor for the Communication Site work, the Administrative Jurisdiction will return to Benton County the balance of all deposits made by Benton County for the Communication Site that were not expended.

Parties to this Agreement who use the 800MHz system will continue to contribute to its operation and maintenance costs, including costs for operation and maintenance of the Communication Site, through annual radio assessments.

2. Section 5.C. of the PROPERTY AND EQUIPMENT section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

Specific Property Owned Solely by Benton County, Richland and Kennewick. All Parties hereto acknowledge that the federal government may have ownership interests or rights with respect to equipment purchased with funds provided by the federal government. All Parties further acknowledge and agree that the Communication Site on Red Mountain as referenced in Section 4.C above shall be owned exclusively by Benton County. All Parties further acknowledge and agree that the remainder of the digital 800MHz radio system, the real property and improvements located at 651 Truman Avenue in Richland, Washington, the leasehold interests and other 800MHz equipment used by Benton County Emergency Services and the Parties hereto at the several existing sites and the Benton County Microwave System used by Benton County Emergency Services shall be owned exclusively by Benton County and the cities of Richland and Kennewick as follows: fifty percent (50%) ownership by Benton County; twenty-five percent (25%) ownership by Kennewick; twenty-five percent (25%) ownership by Richland. The contributions by Pasco and Franklin County required pursuant to section 4.G above do not create any ownership interests in the above assets by those entities.


3. All remaining terms, conditions and provisions of the 2018 Interlocal Agreement shall remain in full force and effect.
4. This Amendment shall be construed in accordance with, and governed by, the laws of the state of Washington.
5. The headings contained in this Amendment are for ease of reference only and shall not be considered in construing this Amendment.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates identified next to their signatures below.

BENTON COUNTY, WASHINGTON

FRANKLIN COUNTY, WASHINGTON



JAMES BEAVER, Chairman 7-14-2020
Date



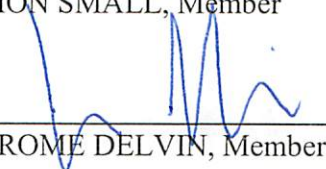
ROBERT E. KOCH, Chairman 7/20/20
Date



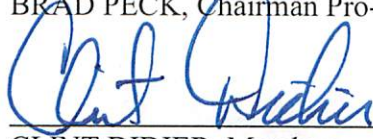
SHON SMALL, Member 7-14-2020
Date



BRAD PECK, Chairman Pro-Tem 7-17-20
Date



JEROME DELVIN, Member 7-14-2020
Date



CLINT DIDIER, Member 7-20-20
Date

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

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

Attest:




Clerk of the Board

Attest:




Clerk of the Board

Approved as to Form:



Ryan K. Brown, Benton County Chief
Deputy Prosecuting Attorney

Approved as to Form:



Jennifer Johnson, Franklin County Deputy
Prosecuting Attorney

[Signatures continue below]

CITY OF PASCO



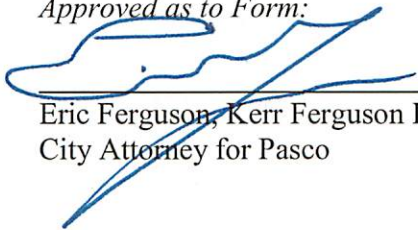
DAVE ZABELL Date
Pasco City Manager

Attest:



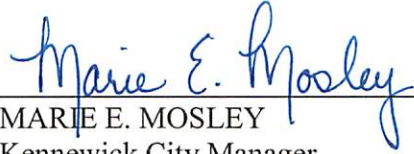
Debby Barham, City Clerk

Approved as to Form:




Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Pasco

CITY OF KENNEWICK




MARIE E. MOSLEY Date
Kennewick City Manager

Attest:



Terri L. Wright, City Clerk

Approved as to Form:



Lisa Beaton
Kennewick City Attorney

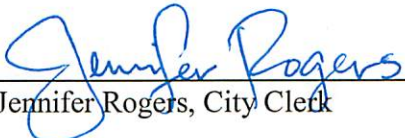
CITY OF RICHLAND



CYNTHIA D. REENTS Date
Richland City Manager


8/12/2020

Attest:




Jennifer Rogers, City Clerk

Approved as to Form:



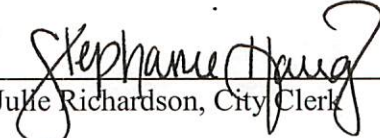
Heather Kintzley
Richland City Attorney

CITY OF WEST RICHLAND




BRENT GERRY Date
West Richland Mayor

Attest:



Julie Richardson, City Clerk

Approved as to Form:



Bronson Brown, Bell Brown & Rio, PLLC
City Attorney for West Richland

[Signatures continue below]

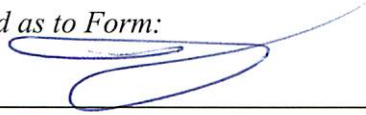
CITY OF PROSSER

 8/9/2020
RANDY TAYLOR Date
Prosser Mayor

Attest:


Rachel Shaw, City Clerk

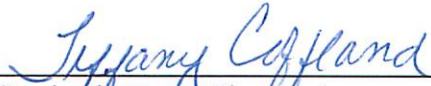
Approved as to Form:


Howard Saxton
Prosser City Attorney

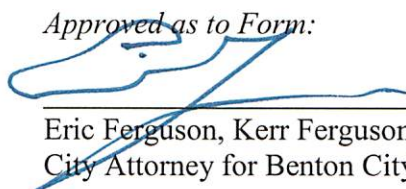
CITY OF BENTON CITY


LINDA LEHMAN Date
Benton City Mayor

Attest:



Stephanie Haug, City Clerk
Tiffany Coffland

Approved as to Form:

 8-4-2020
Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Benton City

BENTON COUNTY FIRE PROTECTION DISTRICTS 1, 2, AND 4

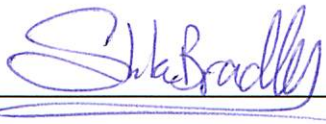
 8/5/2020
DAVID M. JENKINS Date
BCFPD #1 Commission Chair

Attest: 

 8-7-2020
BARRY ORTH Date
BCFPD #2 Commission Chair

Attest: 

 8/6/20
GREGG COUCH Date
BCFPD #4 Commission Chair

Attest: 

[Signatures continue below]

PUBLIC UTILITY DISTRICT #1 OF BENTON COUNTY (BENTON PUD)

Michelle Ochweri

Michelle Ochweri

8/10/2020

Attest: *Charlene J. Feltz* *8/10/2020*

RJD

RICK DUNN
General Manager

Date

RESOLUTION NO. 80-20

A RESOLUTION of the City of Richland authorizing a First Amendment to the 2018 Second Amended and Restated Interlocal Agreement for Benton County Emergency Services.

WHEREAS, for the past several years, BCES has been studying ways to improve coverage of the 800MHz system and, from such studies, Benton County has determined to add a communication site on Red Mountain that will be integrated into BCES's existing simulcast system, and includes the necessary hardware, software, and services to upgrade the Golgotha ASTRO 25 Repeater site; and

WHEREAS, Benton County will reimburse up to \$3,000,000 for costs incurred by BCES, by and through its Administrative Jurisdiction, to render the identified communication site initially operable; and

WHEREAS, Benton County will expend additional funds associated with the cost of a County-owned access easement providing access to the site. Costs to be borne directly by Benton County for the access easement include property interest acquisition, design, construction, and provision of utilities to the site; and

WHEREAS, because Benton County will directly bear the costs associated with acquisition, design and construction of the County-owned access easement, and the provision of utilities (specifically electric), Benton County will not provide reimbursement for any access easement-related costs otherwise incurred by BCES by and through its Administrative Jurisdiction; and

WHEREAS, Amendment No. 1 to the existing 2018 Amended and Restated Interlocal Agreement sets forth the financing and ownership terms with respect to the proposed additional communication site on Red Mountain and the Golgotha Upgrade.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute a First Amendment to the 2018 Second Amended and Restated Interlocal Agreement for Benton County Emergency Services in substantially the form attached hereto as **Exhibit A**.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.


This space intentionally left blank.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 2nd day of June, 2020.



Ryan Lukson, Mayor

Attested by:



Jennifer Rogers, City Clerk

Approved as to form:



Heather Kintzley, City Attorney

**AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED
INTERLOCAL AGREEMENT FOR BENTON COUNTY EMERGENCY SERVICES
FOR FUNDING AN ADDITIONAL COMMUNICATION SITE**

THIS AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT is made and entered into by and between the following entities (collectively, the “Parties”):

Benton County, a political subdivision of the State of Washington;
Franklin County, a political subdivision of the State of Washington;
City of Kennewick, a Washington municipal corporation;
City of Richland, a Washington municipal corporation;
City of West Richland, a Washington municipal corporation;
City of Prosser, a Washington municipal corporation;
City of Benton City, a Washington municipal corporation;
City of Pasco, a Washington municipal corporation;
Benton County Fire Protection District Nos. 1, 2 and 4, all of which are Washington special purpose districts; and
Public Utility District #1 of Benton County, a Washington special purpose district.

WHEREAS, several of the above-referenced entities were parties to a 2009 Interlocal Agreement to fund the acquisition of a digital 800MHz radio system to provide enhanced public safety communications; and

WHEREAS, since execution of that 2009 Interlocal Agreement, Franklin County, the City of Pasco and PUD #1 joined with the previously existing entities to participate in certain aspects of the operations of Benton County Emergency Services (BCES); and

WHEREAS, in 2018, the Parties executed a Second Amended and Restated Interlocal Agreement for Benton County Emergency Services (the “2018 Interlocal Agreement”) to reflect the rights and responsibilities of all BCES participants; and

WHEREAS, for the past several years, BCES has been studying ways to improve coverage of the 800MHz system, and based on such studies Benton County has agreed to add one (1) communication site to be located on Red Mountain that will be integrated into BCES’s existing simulcast system, and the necessary hardware, software, and services to upgrade the Golgotha ASTRO 25 Repeater site to integrate that communication site into the system; and

WHEREAS, Benton County will reimburse up to \$3,000,000 for costs incurred by BCES, by and through its Administrative Jurisdiction, to render the identified communication site initially operable; and

WHEREAS, Benton County will expend additional funds associated with the cost of constructing a County-owned access easement to the communication site terminating on a parcel agreed to by Benton County, provided BCES will not be reimbursed for such costs as Benton

County will directly incur and pay such costs for the easement, including acquisition, design, construction, and provision of utilities to the site (specifically electric); and

WHEREAS, the Parties enter into this Amendment No. 1 to set forth the financing and ownership terms with respect to the proposed additional communication site on Red Mountain.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with RCW 39.34.030 and Section 8 of the 2018 Interlocal Agreement for Benton County Emergency Services, the Parties agree to amend the 2018 Interlocal Agreement as follows:

1. Section 4.C. of the FINANCES section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

800MHz Fund. The 800MHz Fund shall be used for the maintenance and operation of any 800MHz radio system, whether analog or digital, utilized by BCES. The Executive Board is authorized to levy annual radio assessments upon all Parties who use radios under the 800MHz system, and to impose contract fees upon any contracting agencies for use of the same. Assessments shall be determined annually by the Executive Board for inclusion in the Parties' annual budgets. Assessments shall be paid in periodic installments on a schedule determined by the Executive Board. In the event an unforeseen exigent circumstance or uninsured civil judgment results in costs to the Organization in excess of the budgeted expenses for operation and administration of the 800MHz system, the Executive Board is authorized to proportionately levy, by percentage of the Parties' total 800MHz budget responsibility, additional fees to cover the unexpected liability. Such excess costs shall be promptly remitted, upon demand, to Benton County Emergency Services. If the cost overrun is attributable to a single agency's action or inaction, the entire cost overrun shall be borne by that agency.

In order to improve coverage of the 800MHz radio system maintained and operated by BCES in certain areas of unincorporated Benton County, one (1) communication site on Red Mountain will be constructed consisting of a trunked simulcast repeater; one (1) microwave; an equipment shelter; a tower; a generator; a fuel tank; and batteries (the "Communication Site"). To integrate the new Communication Site into the existing system, the Golgotha ASTRO 25 Repeater Site must be upgraded with certain hardware, software and services (the "Golgotha Upgrade"). To facilitate construction of the Communication Site and the Golgotha Upgrade, Benton County agrees to: 1) reimburse BCES, by and through its Administrative Jurisdiction, in an amount equal to the lesser of: a) Three Million Dollars (\$3,000,000); or b) the actual costs to purchase and install the Communication Site and Golgotha Upgrade; and 2) directly pay the costs of easement acquisition, design, and construction of a means of ingress and egress, along with provision of utilities (specifically electric) to a parcel agreed upon by Benton County on which the Communication Site will be located. All operational costs of the Communication Site shall be paid by the Parties hereto in the same manner as other operational costs paid from the 800MHz fund.

The Administrative Jurisdiction is responsible for compliance with applicable procurement laws respecting the purchase and installation of the Communication Site and Golgotha

Upgrade. Benton County is responsible for compliance with applicable procurement laws respecting the access easement to the Communication Site.

Benton County shall deposit One Million Dollars (\$1,000,000) into the 800MHz Fund within thirty (30) days of the full execution of this Amendment No. 1 to the 2018 Interlocal Agreement. The Administrative Jurisdiction will place the deposit in an interest bearing account, and interest will accrue to the benefit of BCES and may be expended on the Communication Site. Beginning on the thirtieth (30th) day after the initial deposit, and occurring every thirty (30) days thereafter until the Communication Site is completed, the Administrative Jurisdiction will send to Benton County a written summary of the expenses incurred for the purchase and installation of the Communication Site. Upon thirty (30) days' written notice from the Administrative Jurisdiction that less than Two Hundred Fifty Thousand Dollars (\$250,000) of Benton County's deposited funds under this section remain in said account, Benton County will deposit another Two Hundred Fifty Thousand Dollars (\$250,000). The account will continue to be replenished by Benton County in this manner until \$3,000,000 in the aggregate has been deposited by Benton County, or BCES has been fully reimbursed, by and through its Administrative Jurisdiction, for the actual costs of the purchase and installation of the Communication Site and Golgotha Upgrade, whichever occurs first. Within thirty (30) days of release of retainage to the contractor for the Communication Site work, the Administrative Jurisdiction will return to Benton County the balance of all deposits made by Benton County for the Communication Site that were not expended.

Parties to this Agreement who use the 800MHz system will continue to contribute to its operation and maintenance costs, including costs for operation and maintenance of the Communication Site, through annual radio assessments.

2. Section 5.C. of the PROPERTY AND EQUIPMENT section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

Specific Property Owned Solely by Benton County, Richland and Kennewick. All Parties hereto acknowledge that the federal government may have ownership interests or rights with respect to equipment purchased with funds provided by the federal government. All Parties further acknowledge and agree that the Communication Site on Red Mountain as referenced in Section 4.C above shall be owned exclusively by Benton County. All Parties further acknowledge and agree that the remainder of the digital 800MHz radio system, the real property and improvements located at 651 Truman Avenue in Richland, Washington, the leasehold interests and other 800MHz equipment used by Benton County Emergency Services and the Parties hereto at the several existing sites and the Benton County Microwave System used by Benton County Emergency Services shall be owned exclusively by Benton County and the cities of Richland and Kennewick as follows: fifty percent (50%) ownership by Benton County; twenty-five percent (25%) ownership by Kennewick; twenty-five percent (25%) ownership by Richland. The contributions by Pasco and Franklin County required pursuant to section 4.G above do not create any ownership interests in the above assets by those entities.

3. All remaining terms, conditions and provisions of the 2018 Interlocal Agreement shall remain in full force and effect.
4. This Amendment shall be construed in accordance with, and governed by, the laws of the state of Washington.
5. The headings contained in this Amendment are for ease of reference only and shall not be considered in construing this Amendment.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates identified next to their signatures below.

BENTON COUNTY, WASHINGTON

FRANKLIN COUNTY, WASHINGTON

JAMES BEAVER, Chairman Date

ROBERT E. KOCH, Chairman Date

SHON SMALL, Member Date

BRAD PECK, Chairman Pro-Tem Date

JEROME DELVIN, Member Date

CLINT DIDIER, Member Date

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

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

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Approved as to Form:

Approved as to Form:

Ryan K. Brown, Benton County Chief
Deputy Prosecuting Attorney

Jennifer Johnson, Franklin County Deputy
Prosecuting Attorney

[Signatures continue below]

CITY OF PASCO

DAVE ZABELL Date
Pasco City Manager

Attest:

Debby Barham, City Clerk

Approved as to Form:

Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Pasco

CITY OF KENNEWICK

MARIE E. MOSLEY Date
Kennewick City Manager

Attest:

Terri L. Wright, City Clerk

Approved as to Form:

Lisa Beaton
Kennewick City Attorney

CITY OF RICHLAND

CYNTHIA D. REENTS Date
Richland City Manager

Attest:

Jennifer Rogers, City Clerk

Approved as to Form:

Heather Kintzley
Richland City Attorney

CITY OF WEST RICHLAND

BRENT GERRY Date
West Richland Mayor

Attest:

Julie Richardson, City Clerk

Approved as to Form:

Bronson Brown, Bell Brown & Rio, PLLC
City Attorney for West Richland

[Signatures continue below]

CITY OF PROSSER

CITY OF BENTON CITY

RANDY TAYLOR Date
Prosser Mayor

LINDA LEHMAN Date
Benton City Mayor

Attest:

Attest:

Rachel Shaw, City Clerk

Stephanie Haug, City Clerk

Approved as to Form:

Approved as to Form:

Howard Saxton
Prosser City Attorney

Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Benton City

BENTON COUNTY FIRE PROTECTION DISTRICTS 1, 2, AND 4

DAVID M. JENKINS Date
BCFPD #1 Commission Chair

Attest: _____

BARRY ORTH Date
BCFPD #2 Commission Chair

Attest: _____

GREGG COUCH Date
BCFPD #4 Commission Chair

Attest: _____

[Signatures continue below]

PUBLIC UTILITY DISTRICT #1 OF BENTON COUNTY (BENTON PUD)

RICK DUNN
General Manager

Date

Attest: _____