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RESOLUTION 09 296

Planning & Development Services BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN AMENDMENT NO. 1 TO THE BENTON COUNTY EMERGENCY SERVICES INTERLOCAL COOPERATION AGREEMENT

BE IT RESOLVED that Max E. Benitz, Jr., Chairman of the Board of Benton County Commissioners, is hereby authorized to sign Amendment No. 1 to the Benton County Emergency Services Interlocal Cooperation Agreement.

Dated this 11 day of May, 2009

Max E Benitz Jr
Chairman of the Board

Leo M Buena
Chairman Pro-Tem

James R Beane
Member

Attest: Cammie
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

cc: D Sparks; R Ozuna; Fires; Cities Auditor



Return Name and Address:

Benton County Commissioners  
PO Box 190  
Prosser, WA 99350

**PLEASE PRINT OR TYPE INFORMATION:**

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

1. **INTERLOCAL AGREEMENT FOR THE BENTON COUNTY EMERGENCY SERVICES**

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

1. **BENTON COUNTY EXECUTIVE BOARD**

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

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

**BENTON COUNTY**

**CITY OF KENNEWICK**

**CITY OF RICHLAND**

**CITY OF WEST RICHLAND**

**CITY OF PROSSER**

**CITY OF BENTON CITY**

**BENTON COUNTY FIRE DISTRICTS 1, 2, & 4**

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

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

N/A

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

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

**BENTON COUNTY RESOLUTION NO. 09-296**

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

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

N/A

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

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

AMENDMENT NO. 1 TO INTERLOCAL AGREEMENT FOR BENTON COUNTY  
EMERGENCY SERVICES INTERLOCAL COOPERATION AGREEMENT  
(2009 800 MHZ FUNDING AMENDMENT)

WHEREAS, the participating jurisdictions have developed and operated an emergency management and dispatch service in accordance with RCW 38.52.070 for more than twenty years, and

WHEREAS, the jurisdictions presently operate BCES pursuant to an Interlocal Cooperation Agreement dated approved by the Board of County Commissioners, Benton County, on March 12, 2007 ("BCES Interlocal Agreement"), and

WHEREAS, by orders dated August 6, 2004 and December 22, 2004, issued by the Federal Communications Commission (FCC), the frequency allocations in all radio spectrums will be reconfigured to allow for more frequency spectrum availability, and

WHEREAS, an analog 800MHz radio system has been in operation at BCES since 1995 and is no longer manufactured or supported by the vendor, Motorola, and

WHEREAS, the BCES Executive Board has identified the public safety communications system replacement technology will be a digital 800MHz radio system that will provide viable public safety communications for many years in the future.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in accordance with RCW 39.34.030 and Section 6 of the Interlocal Agreement, the parties agree to amend the Interlocal Agreement as follows:

1. Section 3.C of the Interlocal Agreement is amended to read as follows:

Benton County Emergency Management Fund

(1) Each party shall contribute to the cost of emergency management upon such fair and equitable basis as shall be determined by the Executive Board. If, in any case, the Executive Board is unable to agree upon the proper contributions of the parties hereto to the costs of the organization, the decisions shall be referred to the State Emergency Management Council for arbitration and the Council's decision shall be final and binding upon the parties hereto. Each party shall pay its share of the cost into the Benton County Emergency Management fund, which is maintained and administered by the administrative jurisdiction. The Executive Board shall have the authority to proportionately levy (by percentage of total budget responsibility) additional fees to cover unexpected liabilities. If the cost over run or liability is the result of a single agency, the entire cost will be borne by that agency.

The Federal Emergency Management Agency (FEMA), through the Chemical Stockpile Emergency Preparedness Program (CSEPP), has agreed to fund \$7,250,000 dollars of costs associated with the purchase and installation of a digital 800MHz radio system. In order to assist with that purchase and installation, Benton County shall pay into the 800 MHz Fund the lesser of (a) \$2,000,000 dollars; or (b) fifty percent (50%) of the costs of the purchase and installation of a digital 800 MHz radio system in excess of \$7,250,000 dollars, and the cities of Kennewick and Richland shall each pay into the 800 MHz Fund the lesser of (a) \$1,000,000 dollars; or (b) twenty five percent (25%) of the costs of the purchase and installation of a digital 800 MHz radio system in excess of \$7,250,000 dollars.

In order to address cash flow needs, Kennewick, Richland and Benton County shall deposit \$1,000,000; \$1,000,000 and \$2,000,000, respectively, into the 800 MHz Fund within ten (10) days of the full execution of this Amendment No. 1 to the Interlocal Agreement. Such deposits shall be deposited into an interest bearing account. Every thirty (30) days after the initial deposit, the City of Richland shall send to Kennewick and Benton County written summaries of the expenses incurred in connection with the purchase and installation of the digital 800 MHz radio system that identify which expenses will be or have been reimbursed by FEMA, which expenses will not be reimbursed by FEMA, and the aggregate amount of expenses incurred by each of Kennewick, Richland and Benton County in connection with the purchase and installation of a digital 800 MHz radio system that will not be reimbursed by FEMA. Once all purchase and installation costs have been incurred, within thirty (30) days from such date the City of Richland shall return to Benton County the balance, if any, of its \$2,000,000 deposit that was unexpended along with Benton County's proportionate share of all interest accrued on the funds deposited for cash flow purposes. Similarly, the City of Richland shall return to the City of Kennewick the balance, if any, of its \$1,000,000 deposit along with Kennewick's proportionate share of all interest accrued.

No other parties to this agreement are obligated to pay for any costs in connection with the purchasing or installation of a digital 800 MHz radio system, but those parties using the system will contribute towards the costs of operating such system through annual radio assessments as set forth below in section 3.C (2).

(2) 800 MHz Fund.

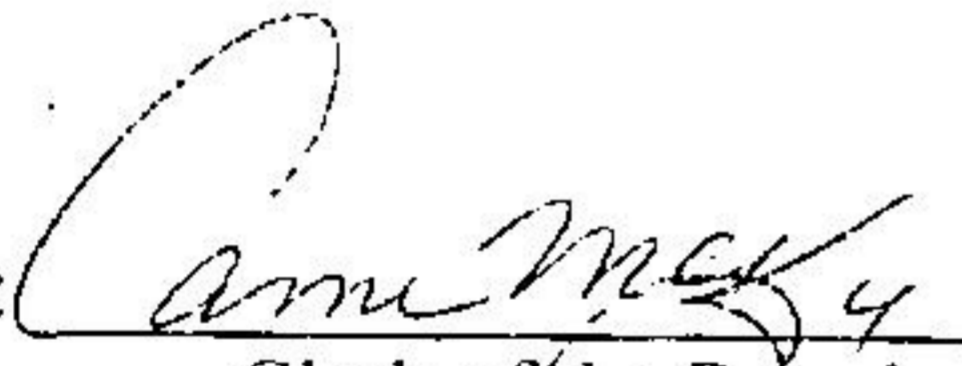
The 800 MHz fund has been and shall continue to be used for the maintenance and operation of any 800 MHz radio system, whether analog or digital, by Emergency Services. The Executive Board is authorized to levy annual radio assessments upon the parties for the use of radios under an 800 MHz system and to impose contract fees upon any contracting agencies. Such assessments shall be determined by the Executive Board annually for inclusion by the parties in their annual budgets and shall be paid in periodic installments to be set by the Executive Board.

2. Section 4.A of the Interlocal Agreement is amended to read as follows:

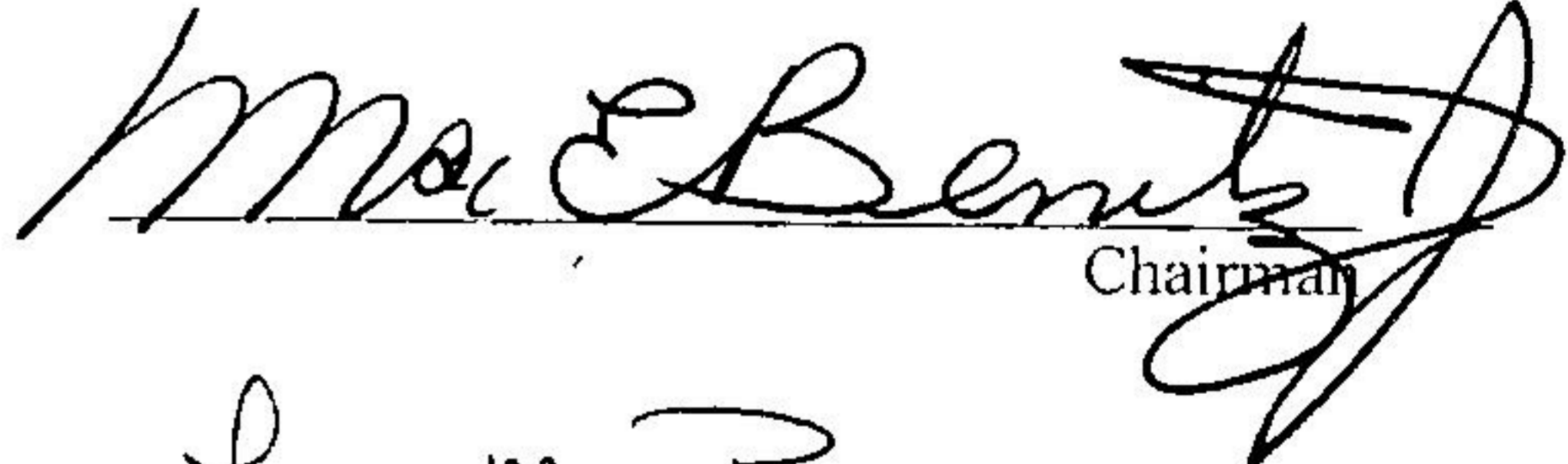
A. The ownership interests in property or equipment, other than a digital 800 MHz radio system, and monies acquired by or through Benton County Emergency Management on or after the execution of the BCES Interlocal Agreement shall be shared by Benton County and the cities of Kennewick, Richland, West Richland, Prosser and Benton City in proportion to the financial and in-kind contribution of each party in the year of acquisition for the acquisition of such property, equipment, or monies. The ownership interests in the existing equipment, property, or monies (prior to the BCES Interlocal Agreement) will also be shared in proportion to previous contributions towards acquisition. All parties hereby acknowledge that the federal government may have ownership interests or rights with respect to equipment purchased with funds provided by the federal government and that with respect to the digital 800 MHz radio system, no parties to this agreement shall have any ownership rights except for Benton County and the cities of Richland and Kennewick. Those rights shall be as follows: 50% for Benton County, 25% for Kennewick and 25% for Richland.


3. All remaining terms, conditions and provisions of the BCES Interlocal Agreement shall remain in full force and effect.


ATTEST:

  
Clerk of the Board

BENTON COUNTY, WASHINGTON

  
Chairman

  
Chairman, Pro Tem

  
Member

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

DATE: 5-11-09

ATTEST: Stephanie Hoag  
City Clerk

CITY OF BENTON CITY  
By: Larry R. Coombs  
Mayor

DATE: 5-28-09

ATTEST: [Signature]  
City Clerk

CITY OF KENNEWICK  
By: [Signature]  
Mayor

DATE: 5/20/09

ATTEST: Sherry Biggs  
City Clerk

CITY OF PROSSER  
By: Paul Warden  
Mayor

DATE: 6-10-09

ATTEST: Juan Richardson  
City Clerk

CITY OF WEST RICHLAND  
By: [Signature]  
Mayor

DATE: 7-7-09

ATTEST: Debra C. Galt  
City Clerk

CITY OF RICHLAND  
By: Galeus  
City Manager

DATE: 5/20/09

BENTON COUNTY FIRE  
DISTRICTS 1, 2 & 4

ATTEST: \_\_\_\_\_

By: Earl Howell  
BCFPD#1

By: Larry Howell  
BCFPD#2

By: Anthony J. Hill  
BCFPD#4

DATE: \_\_\_\_\_