

**RESOLUTION NO. 2018-28**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE AGREEMENT FOR FEE FOR SERVICES RENDERED 2019-2020 CONTRACT FOR THE GRAFFITI ABATEMENT PROGRAM BETWEEN THE CITY OF BENTON CITY AND THE BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER**

**WHEREAS**, the City of Benton City has previously contracted with Benton and Franklin Counties to coordinate and oversee all graffiti abatement activities within the City; and

**WHEREAS**, the City of Benton City is still in need of graffiti abatement services; and

**WHEREAS**, the City determines it is appropriate to enter into an Agreement with Benton and Franklin Counties to provide certain services for the graffiti abatement within the City limits of the City of Benton City; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the original Agreement for Fee for Services Rendered 2019-2020 Contract for the Graffiti Abatement Program Terms and Contraction Between the City of Benton City, Washington, and the Benton-Franklin Counties Juvenile Justice Center, a copy of which is attached hereto and incorporated herein by this reference as Exhibit A; and to take all necessary steps required to complete this transaction.

**ADOPTED** this 6 day of November, 2018, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 6 day of November, 2018.

Resolution 2018-28 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 6 day of November, 2018.



Linda Lehman  
Mayor

Attest:

  
Stephanie Haug, MMC  
City Clerk/Treasurer

Approved as to Form:

  
Kerr Ferguson Law Group  
City Attorney

JUDGES  
Hon. Carrie Runge  
Hon. Cameron Mitchell  
Hon. Bruce A. Spanner  
Hon. Alexander C. Ekstrom  
Hon. Jacqueline Shea-Brown  
Hon. Joseph M. Burrowes  
Hon. Samuel P. Swanberg

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



Darryl Banks, 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

JERRI G. POTTS  
JACQUELINE I. STAM  
PAMELA E. PETERSON  
Court Commissioners

### FEE FOR SERVICES RENDERED CONTRACT FOR THE GRAFFITI ABATEMENT PROGRAM TERMS AND CONDITIONS

This Contract is made and entered into by and between Benton County, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350, and Franklin County, a political subdivision of the State of Washington, 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 the City of Benton City, a municipal corporation, with its principal offices at 708 Ninth ST, PO Box 70, Benton City, WA, 99320-0070 (hereinafter "City").

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

#### 1. DURATION OF CONTRACT

The term of this Contract shall begin January 1, 2019 and shall expire on December 31, 2020 unless terminated soon as set forth herein.

#### 2. SERVICES PROVIDED

The Counties agree to provide the following services to the City:

- A. The Counties Work Crew Supervisor will coordinate and oversee all Graffiti Abatement Program (GAP) activities in a professional and responsible manner; keeping in mind that his/her actions reflect on both the Counties and City.
- B. The City will inform the Counties of the locations that need to be surveyed for graffiti and/or graffiti removal. The Counties will locate the sites, survey for graffiti, schedule the GAP crew to paint over and/or remove graffiti as needed, and complete its work in a timely manner.
- C. To the extent possible, in providing services under this Contract, the Counties will use donated materials. If those materials are not satisfactory to the City, the

Counties agree to purchase materials it deems necessary for graffiti abatement, to the extent there are funds available to do so from the monies it receives from the City under the terms of this Contract.

- D. The Counties will ensure that GAP has a sufficient juvenile work force to accomplish the mission of GAP.
- E. The Counties shall provide transportation for the GAP work crew.
- F. The Counties shall confer with the City from time to time during the progress of the work. The Counties shall prepare work statistics and present status reports and other information that may be pertinent and necessary, or as may be requested by the City.

### **3. 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 City: **Linda Lehman, Mayor  
City of Benton City  
PO Box 70  
Benton City WA 99320-0070**
- B. For Counties: **Darryl Banks, Administrator  
Benton-Franklin Juvenile Justice Center  
5606 W Canal PI Ste 106  
Kennewick WA 99336**

### **4. COMPENSATION**

For the services performed hereunder, the City agrees to pay the Counties as follows:

- A. The City agrees to pay the Counties eight (8) equal payments of Three Hundred and Eighty Seven dollars and Fifty cents (\$387.50) per quarter for services provided under this Contract.
- B. The maximum total amount payable by the City to the Counties for the entire Contract period shall not exceed Three Thousand and One Hundred dollars (\$3,100.00).
- C. No payment shall be made for any work performed by the Counties, except for work identified and set forth in this Contract.
- D. The Counties will submit invoices to the City on a quarterly basis during the progress of the work. Invoices shall cover the time Counties performed work for the City during the billing period. The City shall pay the Counties for services rendered and will remit payment within thirty (30) days from the date of receipt.

**5. AMENDMENTS AND CHANGES IN WORK**

No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by authorized representatives of both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the Administrator of Benton-Franklin Juvenile Justice Center and both Benton and Franklin Counties' Boards of County Commissioners and shall not be binding until so approved.

**6. HOLD HARMLESS AND INDEMNIFICATION**

- A. The City 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 City's negligent acts, errors or omissions in the performance of this Contract. Provided, that the City'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. The County shall hold harmless, indemnify and defend the City, 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 County's negligent acts, errors or omissions in the performance of this Contract. Provided, that the County's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the City, its officers, officials, employees or agents.

**7. TERMINATION**

- A. The Counties may terminate this Contract in whole or in part whenever the Counties determine, 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 City.
- B. If either party breaches any of its obligations hereunder, including but not limited to timely payment of compensation to the Counties in accordance with Section 4 of this Contract, and fails to cure the breach within ten (10) days of written notice to do so, the other party may immediately terminate this Contract by providing written notice by certified mail to the breaching party.
- C. In the event this Contract is terminated by either party prior to December 31, 2020, the City shall pay the Counties on a pro-rated basis for services performed up to the termination date.

**8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

- A. The Counties shall perform the terms of the Contract using only its bona fide employees or agents, and the obligations and duties of the Counties under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the City.
- B. The Counties warrant 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 Counties, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

**9. 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.

**10. COMPLIANCE WITH LAWS**

Both parties agree to comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

**11. NONDISCRIMINATION**

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

**12. DISPUTES**

Differences between the City 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 Counties 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 the City's right to seek judicial relief.

**13. 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 and Franklin Counties, Washington.

**14. SUCCESSORS AND ASSIGNS**

The Counties, to the extent permitted by law, and the City 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.

**15. 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.

**16. 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.


**17. 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:

City of Benton City

Benton Franklin Counties  
Juvenile Justice Center



11/20/18

Linda Lehman, Mayor

Date

Darryl Banks

Date

**BENTON COUNTY APPROVAL**

**FRANKLIN COUNTY APPROVAL**

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Stephen Hallstrom, Deputy Prosecuting Attorney Date

\_\_\_\_\_  
Civil Deputy Prosecuting Attorney Date

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman, Board of Commissioner  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman, Board of Commissioner  
Date: \_\_\_\_\_

Attest:

Attest:

Clerk of the Board: \_\_\_\_\_

Clerk of the Board: \_\_\_\_\_