



**PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY
AGREEMENT FOR SERVICES**

"SAFETY AND TRAINING MANAGER"

I. PARTIES

THIS AGREEMENT, entered into this 1st day of April, 2013 by and between Franklin PUD, (hereinafter called "Utility"), and Benton Public Utility District No. 1 (hereinafter called "District").

II. STATEMENT OF WORK

District agrees to provide to Utility a Safety and Training Manager to provide certain safety and loss prevention training services and advice as described in Appendix A.

III. COMPENSATION

The Utility shall pay for services that are provided by this Agreement and in accordance with Appendix B – Schedule of Payments, attached hereto.

IV. TERM OF AGREEMENT

The initial term of this Agreement is for twelve (12) months and shall commence on April 1, 2013. This Agreement shall be automatically extended annually unless either party notifies the other to the contrary as herein provided under Section XVIII, Termination.

V. DOCUMENTS INCORPORATED

The following documents are, by this reference, incorporated into and made a part of this Agreement.

*Appendix A – Statement of Work
Appendix B – Schedule of Payments
Appendix C – Special Conditions (if applicable)*



VI. EMPLOYMENT

Any and all employees of the District or other such persons while engaged in the performance of any work or services required of the District under this Agreement, shall be considered employees of the District only and not of the Utility.

OTHER PARTIES

It is mutually agreed that this Agreement is not transferable by either signatory to a third party without the consent of the other signatory.

VII. CONFIDENTIAL INFORMATION

The District acknowledges and understands that, in the course of performing services hereunder, the District will have access to information that is or may be trade secrets and/or is confidential and proprietary to the Utility.

For purposes of this Agreement, "Proprietary and Confidential Information" is information, written or oral, that is provided, used, developed, created, or discovered by the District while reviewing or receiving information, training or materials from Utility which became known by, or was conveyed to the District and includes, but is not limited to, trade secrets, computer programs, ideas, techniques, inventions (whether patentable or not), business and product development plans, members, customers and other information concerning Utility's operations, research or development, personnel or taxpayer information, and inventions.

The District shall not violate the confidence of any person or entity with regard to such information. Notwithstanding any provision of this Agreement, the District may disclose any information required to be disclosed under the Washington State Public Disclosure Act, or by any court order, process or other law requiring disclosure. The obligations of the District not to disclose Proprietary Confidential information shall survive the termination of this Agreement.

The District shall provide Utility with timely written notice thereof and Utility shall have the option of negotiating proprietary protection for the information, approving release of the information, seeking judicial relief to enjoin release of such information, or defending any legal action that is brought to enforce such request.

VIII. VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Benton



XIII. CHANGES OF WORK

The District shall make such changes and revisions in the completed work of this Agreement as necessary to correct or revise any errors, omissions, or other deficiencies in the reports, and other similar documents which District is responsible for preparing or furnishing under this Agreement, when reasonably required to do so by Utility, and such work will be provided by District without additional compensation.

Should the Utility find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, District shall make such revisions as directed by the Utility. This work shall be considered as Extra Work and will be paid for as herein provided under Section XV- Extra Work.

XIV. EXTRA WORK

The Utility may desire to have the District perform work other than the work described in the Statement of Work, or render additional services that could surpass the percent allotted for the Utility or is outside the general scope of this Agreement. Such work shall be considered as Extra Work. Such work will be specified in a written supplement to this Agreement which will set forth the nature of the scope, schedule for additional work, and the amount and the method of payment. Work under a supplemental agreement shall not proceed until authorized in writing by the Utility and agreed upon by the District.

XV. INDEMNIFICATION

It is further agreed that each party shall defend, indemnify, and hold the other party, its officers, officials, employees and volunteers harmless for losses attributed to each party's own comparative negligence from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or connection with the negligent performance of, or breach of, this Agreement.

XVI. DISPUTE RESOLUTION

As it relates to this Agreement the Utility and the District agree to negotiate in good faith for a period of thirty (30) days from the date of notice of all disputes between them prior to exercising their rights under this Agreement, or under law. Each of the parties agrees to appoint a knowledgeable, responsible senior representative to meet and negotiate in good faith to resolve any disputes arising out of or relating to this Agreement. The parties intend that these negotiations be conducted by non-lawyer, business representatives at the Director level or above for District, and with someone who directly reports to the General Manager/Executive Vice President for Utility.



All disputes relating to this Agreement between the Utility and District not resolved by negotiation between the parties may be arbitrated only by mutual agreement of the Utility and the District. If not mutually agreed to resolve the claim by arbitration, the claim will be resolved by legal action. Arbitration of all claims may be in accordance with the Arbitration Rules of the American Arbitration Association.

XVII. TERMINATION

Utility may withdraw from and thereby terminate its obligations under this Agreement by giving the District six (6) months prior written notice, and in which event such termination shall be effective, and the Utility shall be relieved of any liability first arising hereunder with respect to that period following, the expiration of said six (6) months.

Other utilities ("Participants" or "Participant") have entered into similar agreements with the District to share in the costs of providing similar services. The cost of providing the services to all Participants, the District and the Utility (the "Services") is set forth in Appendix B. In the event of a withdrawal of a Participant identified in Appendix B, the rights and obligations of the remaining utilities relating to the Services and the Safety And Training Manager (including the amount of compensation payable hereunder) shall continue to be governed by their respective Safety And Training Manager Agreement with the District in all respects as if the withdrawal had not occurred, except that the District shall be relieved of any obligation to perform any Services for the Utility following the effective date of its withdrawal.

In the event the District receives notice by another party named in Appendix B that it is terminating its agreement with the District, the District shall give notice to the Utility. In such event the Utility and the District, together with other Participants who have not given notice of termination, shall attempt to reallocate the costs of the Services to all remaining Participants, the Utility and the District. In the event an agreement cannot be reached, this Agreement shall terminate on the effective date of the termination by the Participant first giving notice of termination.

If any work covered by this Agreement shall be suspended or abandoned by the Utility before the District has completed the assigned work, the District shall be paid for services performed to the time of such suspension or abandonment.

XVIII. ADMINISTRATION

The District's Contracting Officer for this work is Michelle N. Ochweri. The District's Technical Representative for this work is Steve Hunter. The Utility's representative for this Agreement is Steve Frost.



CONTRACT #: 13-31-03

XIX. BOUND PARTIES

This Agreement shall be binding upon the parties hereto and their representatives, heirs, executors, successors and assigns.

XX. EXECUTION

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

**PUBLIC UTILITY DISTRICT NO. 1 OF
BENTON COUNTY**

Stephen B. Hunter
By

Stephen B. Hunter
Please Print Name

Assistant General Manager
Title

4/1/13
Date

FRANKLIN PUD

Steve Palmer
By

Steve Palmer
Please Print Name

Acting Manager/General Counsel
Title

4/1/2013
Date



Appendix A

Statement of Work

District shall provide a Safety and Training Manager that will coordinate the Utility's Safety Programs including safety training and related services to the Utility upon a schedule coordinated with other utilities also contracted for these services as identified in Appendix B. This may encompass:

- safety and loss prevention consulting and advice to the Utility's Operations department employees and, administrative office employees;
- development of and regular updates to safety manuals;
- recordkeeping for monitoring progress in the Utility's safety and loss prevention objectives, and required safety training;
- development of programs for raising employee awareness to safety and loss prevention concerns;
- researching and keeping updated on changes to any Department of Safety and Health (DOSH) and Occupational Safety and Health Administration (OSHA) regulations and communicating with the Utilities to assure their understanding of these changes;
- participating in any Labor and Industries (L&I) inspection meetings or appeals and assisting with correspondence in response to citations;
- conducting accident investigations on any employee injury, electrical contact, and vehicle damage as needed and/or as requested;
- conducting accident investigations on any public electrical contact and on an as needed basis for other injury reports;
- completing, at a minimum, quarterly crew and facility inspections;
- coordinating meetings with L&I inspectors and their managers with Utility representatives on a regular or as needed basis;
- and any additional safety-related tasks that the Utility may from time to time request.



Appendix B Schedule of Payments

Compensation is to be paid to the District for the performance of the services described in Appendix A, Scope of Work is set forth below. Such payment shall be full compensation for all work performed or services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Appendix A, Scope of Work. The hourly labor rates in this contract may be adjusted during the term of the contract to reflect annual changes made for cost of living.

Written documentation shall be provided to the Utility before any payments will be considered for adjustment. The hourly labor rate adjustment shall be limited to the actual increase or decrease in the hourly wage, without mark-up for profit or overhead. In performing the services called for under this Agreement, the Safety and Training Manager shall provide 160 hours of services each month (during regular business hours) to the District, the Utility and the Participants.

Payment for services and allocation of services shall be on a percentage basis set forth below:

District	40%
City of Richland	20%
Benton REA	20%
Franklin PUD	20%

The cost to the utilities for receiving the Safety And Training Manager services for the first year is \$159,700.00, and the four participating utilities are responsible for their respective percentage share of this amount.

District shall submit an invoice on a monthly basis to each Utility, Invoices shall be payable within thirty (30) days of their receipt. Payments delayed beyond such thirty (30) day time period shall be subject to interest calculated on a daily basis at a 12% annualized rate until paid.



CONTRACT #: 13-31-03

Utility Safety Coordinator Cost Breakdown	For 2013
Annual Salary	\$92,000
Overhead (63%) <i>Overhead costs include: vacation, training, office space, telephone, computer, copier, fax, technical support for office equipment, supplies</i>	\$57,960
Vehicle 16K mi/yr @\$.565	\$9,040
Cell Phone (\$60/mo)	\$720
Total	\$159,720
Benton PUD (40%)	\$63,888
Remaining Cost	\$95,832
Public Utility Tax (3.873%)	\$3,712
Total Remaining Cost	\$99,544
Benton REA (20%)	\$33,181
City of Richland (20%)	\$33,181
Franklin PUD (20%)	\$33,181



CONTRACT #: 13-31-03

Appendix C Special Conditions

Changes to Agreement: None