

**RESOLUTION NO. 2017-34**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE CONSTRUCTION EASEMENT DEED WITH KEN BRICKER AND GINA BRICKER FOR THE WWTP SOLAR PANEL PROJECT**

**WHEREAS**, the City of Benton City has decided to install solar panels at the City's Wastewater Treatment Plant; and

**WHEREAS**, the solar panels will extend partially onto the neighboring property owned by Ken Bricker and Gina Bricker; and

**WHEREAS**, Ken Bricker and Gina Bricker have agreed to execute a Construction Easement Deed allowing the City to construct and maintain said solar panels on a specified portion of his property indefinitely until such time as a Quit Claim Deed and boundary line adjustment can be done in order to confer the property in fee simple title to the City; and

**WHEREAS**, said Construction Easement Deed requires execution by the 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 Construction Easement Deed, dated October \_\_\_ 2017, a copy of which is attached hereto as Exhibit A, and incorporated herein by this reference; and to take all necessary steps required to complete this transaction.

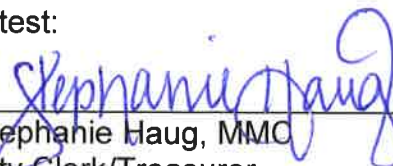
**ADOPTED** this 17 day of October 2017, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 17 day of October, 2017.

Resolution 2017-34 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 17 day of October 2017.




Linda Lehman, Mayor

Attest:

  
Stephanie Haug, MMC  
City Clerk/Treasurer

Approved as to Form:

  
Kerr Law Group  
City Attorney

**FILED FOR RECORD AT REQUEST OF:**

City of Benton City, Washington

**WHEN RECORDED RETURN TO:**

City of Benton City, Washington

708 9<sup>th</sup> Street

Benton City WA 99320

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Tax Parcel No. 118971000016000

**CONSTRUCTION EASEMENT DEED**

**FOR VALUE CONSIDERATION**, receipt of which is hereby acknowledged, the Grantors, Ken Bricker and Gina Bricker, husband and wife, hereby grant and convey to the Grantee, the City of Benton City, Washington, a Municipal Corporation, its successors and assigns, a construction easement deed described below for the purpose of excavating, installing, assembling, storage installation, keeping and maintenance of, and all construction relating to solar panels and their required footings along with all other appurtenances and improvements required for installation and use of said solar panels upon the following described real property also known as Benton County Parcel No. 118971000016000:

THAT PORTION OF THE 'YAKIMA BRANCH' RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD COMPANY, SUCCESSOR IN INTEREST TO THE NORTH COAST RAILROAD COMPANY AND THE OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY, LYING IN THE FOLLOWING DESCRIBED LEGAL SUBDIVISIONS OF BENTON COUNTY, WASHINGTON, TO WIT: GOVERNMENT LOT 3 OF SAID SECTION 18 LYING EASTERLY OF THE KIONA CANAL, WITHIN THE CORPORATE LIMITS OF THE CITY OF BENTON CITY, WASHINGTON: AND GOVERNMENT LOT 4 IN SAID SECTION 18.

A construction easement described as:

THE NORTHERLY PORTION OF SAID DESCRIPTION LYING APPROXIMATELY 5 FEET SOUTH OF AN EXISTING SIX-FOOT CHAIN LINK FENCE ALONG A NORTHERLY LINE RUNNING PARALLEL TO THE CENTER OF SAID RAILROAD RIGHT-OF-WAY TO BE USED AS A CONSTRUCTION EASEMENT FOR THE CITY OF BENTON CITY UNTIL SUCH A TIME AS THE CITY AND THE LAND OWNER DEVELOP A BOUNDARY LINE ADJUSTMENT AGREEMENT.

**ALSO TOGETHER WITH AND SUBJECT TO** easements, reservations, covenants and restrictions apparent or of record.

Grantee shall be responsible for any and all costs, damages or expenses arising from the above-described construction, and agrees to defend, indemnify and hold the Grantors harmless from and against any costs, claims, losses, damages, expenses, judgments, and causes of action the Grantors may incur arising out of, or in connection with the Grantee's construction activities upon the premises.

Site improvements, fencing or landscaping impacted by the contractor within the construction easement area, will be restored and/or replaced to a similar condition as it previously existed.

In the event any claim or dispute arises as a result of this Agreement, the parties shall meet in a good faith attempt to resolve such dispute or claim, and in the event such dispute or claim cannot be resolved by agreement of the parties, such dispute shall be resolved by binding arbitration pursuant to RCW 7.04A, as amended, with the venue for such arbitration being Benton County, Washington, and the prevailing party awarded its reasonable attorney fees as a cost of the arbitration.

This construction easement shall commence on the date of execution below and shall expire upon the execution of a Quit Claim Deed and boundary line adjustment, whereby the Grantors shall deed the property that is the subject of this easement to the City of Benton City.

**IN WITNESS WHEREOF**, the parties have executed this Construction Easement Deed by and through their authorized representatives on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

GRANTEE:  
City of Benton City, Washington

By: Linda Lehman  
Linda Lehman, Mayor

GRANTORS:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Ken Bricker Gina Bricker

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF BENTON )

On this 17 day of October, 2017, before me, personally appeared LINDA LEHMAN, Mayor of the City of Benton City, Washington, to me known to be the individual who executed the within and foregoing instrument, and acknowledged said instrument to be her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 17 day of October, 2017.



Stephanie M. Haug  
NOTARY PUBLIC in and for the State of Washington  
Residing at Kennelwick, WA  
My Commission Expires: December 17, 2019

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF BENTON )

On this \_\_\_ day of \_\_\_\_\_, 2017, before me, personally appeared KEN BRICKER and GINA BRICKER, husband and wife, to me known to be the individuals who executed the within and foregoing instrument, and acknowledged said instrument to be their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_