
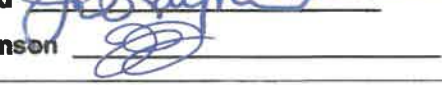


Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: 02/23/2021	PREPARED BY: Stephen Sultemeier
Meeting Date Requested: 03/02/2021	PRESENTED BY: Stephen Sultemeier
ITEM: (Select One) <input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Brought Before the Board <div style="text-align: right; margin-right: 100px;">Time needed:</div>	
SUBJECT: Approval of R & B Fleck Enterprises dba Western Medical Resources, LLC Personal Services Contract.	
FISCAL IMPACT: \$1,674,772.00 per year effective November 07, 2020 through November 07, 2022, for Franklin County Corrections Center Offender Medical/Mental Health/MOUD Programs	
BACKGROUND: A Request For Proposal was advertised and R & B Fleck Enterprises dba Western Medical Resources, LLC was selected as the best overall Medical/Mental Health/MOUD Program match for the Franklin County Corrections Center from the received proposals.	
RECOMMENDATION: Move to accept the resolution approving the R & B Fleck Enterprises dba Western Medical Resources, LLC, Personal Services Contract effective November 07, 2020 through November 07, 2022.	
COORDINATION: <div style="display: flex; justify-content: space-between;"> <div> Jim Raymond Jennifer Johnson </div> <div style="text-align: right;">   </div> </div>	
ATTACHMENTS: (Documents you are submitting to the Board) 2 original contracts of the Personal Services Contract Terms and Conditions between R & B Fleck Enterprises dba Western Medical Resources, LLC and Franklin County.	
HANDLING / ROUTING: (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf) Original to Franklin County Commissioners' Administration Original to R & B Fleck Enterprises dba Western Medical Resources, LLC Copy to Corrections	

I certify the above information is accurate and complete.


Cmde.
Name, Title

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COUNTY COMMISSIONER, FRANKLIN COUNTY, WASHINGTON

RE: IN THE MATTER OF A PERSONAL SERVICES AGREEMENT BETWEEN R & B FLECK ENTERPRISES DBA WESTERN MEDICAL RESOURCES, LLC FOR INMATE MEDICAL SERVICES TO BE PROVIDED TO INMATES WITHIN THE FRANKLIN COUNTY CORRECTIONAL CENTER, PASCO, WASHINGTON

WHEREAS, both parties wish to enter into a contract for the Personal Services Contract to provide inmate medical services to inmates within the Franklin County Correctional Center; and

WHEREAS, pursuant to RCW 36.01.010 and RCW 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the county and ensure the care of county property and management of county funds and business; and

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into the attached Agreement as being in the best interest of Franklin County.

WHEREAS, the Board of Franklin County Commissioners hereby concurs with the recommendation to enter into the Personal Services Contract with R & B Fleck Enterprises dba Western Medical Resources, LLC to provide inmate medical services to inmates within the Franklin County Correctional Center; and

BE IT FURTHER RESOLVED, the attached Contract shall be effective November 7, 2020 and shall terminate November 7, 2022

APPROVED this _____ day of _____, 2021.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

Commissioner

Attest:

Commissioner

Clerk to the Board

Commissioner

Originals: Auditor
Abadan

cc: Sheriff's Department
Corrections

PERSONAL SERVICES CONTRACT TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between FRANKLIN COUNTY, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Franklin County Sheriff's Office (hereinafter "COUNTY"), and R & B Fleck Enterprises dba Western Medical Resources, LLC, with its principal offices at 9915 Sandifur Parkway, Pasco, Washington, 99301 (hereinafter "CONTRACTOR").

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

DURATION OF CONTRACT

The term of this Contract shall begin November 7, 2020, and shall expire on November 7, 2022 unless terminated sooner as set forth herein. The term of this Contract shall automatically extend an additional two years at the end of the first term unless the COUNTY notifies the CONTRACTOR in writing at least 60 days prior to the original termination date that they do not wish the contract to be extended. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, within a reasonable time no later than the expiration date.

SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

R & B Fleck Enterprises, also doing business as Western Medical Resources, LLC, is committed to providing offender primary and urgent medical services to the inmates of Franklin County Correction Center. We understand that these correctional healthcare services are to include:

- Physician and physician assistant services
- Registered nurse and medical assistant services,
- Pharmaceuticals
- On-site medical services and arranging for off-site medical services
- Arranging for dental, laboratory, X-ray, and medical consultation services
- Disposable medical and office supplies
- Medical records management, to include a high quality electronic medical records management system
- Medication assisted treatment services for drug-addicted inmates.
- Overall medical management services

The goal would be to have sufficient staffing to provide these necessary services

SCOPE OF SERVICES

Policies, procedures and protocols will meet the essential standards and requirements of the NCCHC, which are addressed in the Policy Manual. This manual should be available to the Commander, Jail Staff, and Medical Staff, to review frequently.

Compliance with all the requirements of HIPAA as it applies to jail inmates will be maintained.

- **Physician Services:** The physician Medical Director will be available on-site as necessary, and by phone constantly, and will be responsible for all medical decisions. The physician will be available for the required monthly and quarterly meetings with the Jail Commander and his staff, and always available to complete any necessary signatures and advise the medical providers.
- **On-Call Availability:** The physician and/or his designated physician assistant will be available for emergent needs and medical staff assistance 24/7.
- **Nurse Services:** Two nurses (RN and/or LPN) will be on-site 8 hours each (total of 16 hours per day), 5 days a week. In addition, two Medical Assistants (MAs) will be on-site, 5 days a week, including week-ends (Saturdays and Sundays) to ensure 24/7 coverage.
- A written plan for how to do sick call, triage medical kites/requests, coordination for off-site treatment and services, management and administration of medications, and records management will be implemented. These issues will be specified in the Jail Medical Policy Manual, as stated below.
- At least one RN or LPN will attend the classification meetings once a week for inmate medical and/or mental health housing placement.
- **Pharmacy/Medication Services:** The Medical Director and medical providers will coordinate the provision of all pharmaceuticals and OTC medication appropriate for the correctional environment. They will also provide management of the drug inventory, ordering, and medication set-up and distribution 24/7. No meds will be stockpiled, other than some emergency meds to be kept in a secure locked area.
- **Inmate Health Assessments:** The medical staff will provide inmate intake screenings within 24 hours of admission to the facility. They will also provide a reasonable and necessary health care plan for all inmates in need of ongoing care.
- **Sick Call:** We will establish and implement sick call procedures for running sick call 3 days a week, at the best times for the jail staff, whenever possible.
- **Chronic Care Patients:** provide the best possible medical care for patients with chronic illnesses.
- **On-and Off-Site medical services:** coordination of all on- and off-site medical services, including, but not limited to hospital services, laboratory, X-ray, medical consults, MAT specialty services and emergency transportation services up to a specified capped liability limit and excluding treatment and care associated with HIV/AIDS, Hepatitis, MS, Cancer, or court-ordered.
- **Non-Emergency and Emergency Medical Care:** provide emergency and non-emergency medical care to inmates, staff, and visitors as necessary.
- **Medical Records:** manage and maintain all inmate medical records separate from the jail records of the inmate. Will use a medical records clerk or medical assistant to help with the medical records.
- **Electronic Medical Records:** Will use Practice Fusion, a good electronic medical records system.
- **Mental Health Services:** An ARNP mental health nurse will see mental health patients once a week. All offenders will have mental health screening, suicide prevention education, and referral services with either the mental health counselor

or psychiatrist. Will coordinate with local community health providers to provide continuity of care. The qualified Mental Health Professional (QMHP) or equivalent, will attend classification meetings one day per week for offender medical and/or mental health housing placement. The mental health counselor will provide sick call to direct mental health assessments.

- Dental Services: Inmates will receive dental screenings, evaluations, and hygiene instruction. Off-site dental services will be scheduled as needed.
- Medication Services: A plan for the provision and maintenance of medications at the Franklin County Jail (FCJ) will be instituted. The nurses will pass the meds as ordered by the medical providers. The Medication Assisted Treatment program will be coordinated according to the existing protocol.
- Biomedical Waste: A plan for the timely removal of biomedical waste from the facility medical unit will be developed.
- Laboratory and Diagnostic Services will be coordinated with existing laboratories, as appropriate. High-cost lab and diagnostic studies will be discussed with the Jail Commander or his designee prior to ordering, attempting to save costs in this area whenever it does not jeopardize patient care.
- A Medical Policy Procedures Manual will be available to jail correctional staff and medical staff. The policy manual is designed to enable the facility to meet the NCCHC standards for medical care in jails.
- Adherence to the Franklin County jail security policies and procedures.
- Body cavity searches, blood draws, and urine analysis will be coordinated in accordance with court orders and within the legal limit of the law.
- Required offender medical information, including diagnoses, will be provided as required for the jail for billing invoice purposes.
- Analyses and reporting of jail medical statistics and overview of the jail medical program will be provided on a mutually agreed upon timeframe.
- Management services including, but not limited to cost containment, continuing quality improvement, utilization management, risk management, and HIPAA compliance will be provided.
- When medical staff is present, provide on-site emergency medical treatment to offenders, jail staff, and visitors as needed and appropriate.
- Pregnant female inmates will be provided on-site medical care as appropriate, in conjunction with off-site OB/GYN medical providers.
- Education and Training for correctional officers, staff, and offenders will be planned and organized on a recurring schedule.

In addition the CONTRACTOR shall provide the following services:

(1) All the services set forth herein in accordance with a schedule agreed upon by the Franklin County Sheriff or designee and CONTRACTOR.

(2) Designate in advance and make available twenty-four (24) hours per day licensed registered nurse(s) and or licensed physician(s) for consult with FCCC personnel for inmate health and medical issues, coordinated Medication Assisted Treatment (MAT), emergency or non-emergency, which may require CONTRACTOR or an appropriate authorized representative or employee of CONTRACTOR to physically respond to the FCCC facility.

(3) Be solely responsible for the practice of medicine by

CONTRACTOR, CONTRACTOR'S employees or authorized representatives within FCCC.

(4) Make recommendations to the FCCC Commander or Franklin County Sheriff or his designee regarding the provision of medical services in FCCC and issues related thereto.

(5) All services provided shall be performed under current licensure with the State of Washington, including written documentation of affiliation with a licensed State of Washington medical physician.

(6) Compensate all personnel performing services under this Contract and pay any and all taxes, fees, or costs related thereto.

(7) Procure all permits and licenses necessary to perform the services herein prior to commencement of this Contract and thereafter maintain such continuously throughout the term of this Contract.

- b. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- c. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- d. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as may be reasonably requested by the COUNTY.

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 CONTRACTOR:
Ronald W. Fleck, MD; R & B Fleck Enterprises, LLC, DBA Western Medical Resources, 9915 Sandifur Parkway, Pasco, WA 99301; Company Primary Contact: Dr. Fleck at 509-240-5054; email: flecklogan@hotmail.com.
- b. For COUNTY:
Commander Stephen Sultemeier, Franklin County Correctional Center, 1016 N. Fourth Avenue, Pasco, Washington. Phone number: 509-545-3520; email: ssultemeier@co.franklin.wa.us.

COMPENSATION

For the services performed hereunder, the CONTRACTOR shall be paid according the fee schedule which is attached:

- a. The COUNTY shall compensate the CONTRACTOR in the amount of approximately one hundred and Eleven Thousand Three Hundred Seventy nine dollars per month (\$111,379.00/month). for services rendered pursuant to the enclosed Fee Schedule. Charges for premium nurse and provider call out will be billed to the COUNTY on a monthly basis if/as incurred. The COUNTY shall compensate the CONTRACTOR in the amount of \$28,185.00/month for services provided under the MAT Program.
- b. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- c. The CONTRACTOR shall submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt.
- d. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.
- e. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- f. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.
- g. The parties agree the County will handle processing of co-pays charged to offenders for medical and mental health services.

FRANKLIN COUNTY CORRECTION FACILITY FEE SCHEDULE:

Registered RN/LPN (2 FTE):

- \$80.00 per hour @ 16 hours/day, 5 days a week
- \$1,280.00 Daily
- \$6,400.00 Weekly
- \$332,800 Yearly

Certified Medical Assistants (2 FTE):

- \$55.00 per hour @ 16 hours/day, 5 days per week
- \$880.00 Daily
- \$4,400.00 Weekly
- **\$228,000.00 Yearly**

Certified Medical Assistant--Ward Clerk (0.75 FTE)

- \$55.00 per hour, 6 hours per day
- \$330.00 Daily
- \$1,650.00 Weekly
- **\$85,800.00 Yearly**

Certified Medical Assistant (1 FTE)

- \$55.00 per hour, 40 hours (Saturday and Sunday)
- \$2,200.00 Weekly
- **\$114,400.00 Yearly**

Mental Health Medication Management—Psychiatric ARNP:

- \$200.00 per hour, 3 hours per week
- \$600.00 Weekly
- **\$31,200.00 Yearly**

Physician/Physician Assistants:

- \$225.00 per hour;
- 6 hours 3 days per week = Total 18 hours
- \$4,050.00 Weekly
- **\$210,600.00 Yearly**

Mental Health Case Manager:

- \$50.00 per hour, 8 hours per day
- \$400.00 Daily
- \$2,000.00 Weekly
- **\$104,000.00 Yearly**

Qualified Mental Health Professional:

- \$55.00 per hour, 8 hours per day
- \$440.00 Daily
- \$2,200.00 Weekly
- **\$114,400.00 Yearly**

On-Call Pager weekdays:

- \$7.00 per hour x 15 hours/day = \$105.00 night
- \$105.00 x 5 = \$525.00 Weekly
- \$2,275 per month
- **\$27,300.00 Yearly**

Week-End Call:

- \$7.00 per hour x 24 hours/day = \$168.00 per day
- \$168 per day x 2 days per week = \$336 Weekly
- **\$17,472 Yearly**

Nurse Call-Out: \$125 per hour

Medical Provider Call-Out: \$220 per hour

Electronic Medical Records:

- \$2,000.00 per month
- **\$24,000.00 Yearly**

Administration Fee:

- \$3,882.00 Monthly
- **\$46,580.00 Yearly**

TOTAL FCJ: \$1,336,552.00

TOTAL MAT: 338,220.00

TOTAL: \$1,674,772.00

MAT Program:

- Prescribers (0.15 FTE):
 - \$5,850.00 Monthly
 - **\$70,200.00 Yearly**
- MAT Medication Management:
 - \$3,750.00 Monthly
 - **\$45,000.00 Yearly**
- Cell Phone and Local Travel:
 - \$476.00 Monthly
 - **\$5,720.00 Yearly**
- Nurse Care Manager (0.8 FTE):
 - \$10,400.00 Monthly
 - **\$124,800.00 Yearly**
- Care Navigator/Data Collection Coordinator (1.0 FTE):
 - \$4,375.00 Monthly
 - **\$52,500.00 Yearly**
- Administrative Fee:
 - \$3,333.33 Monthly
 - **\$40,000.00 Yearly**

TOTAL MAT PROGRAM:

- \$28,185.00 Monthly
- **\$338,220.00 Yearly**

TOTAL FCJ: \$1,336,552.00

TOTAL MAT: \$338,220.00

**TOTAL: \$1,674,772.00 Yearly
\$139,564.33 Monthly**

AMENDMENTS AND CHANGES IN WORK

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties' authorized representatives. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, to the extent caused by the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually

negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section [7] shall survive termination and expiration of this Contract.

- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

INSURANCE

- a. **Professional Legal Liability:** Prior to the start of work under this Contract, the CONTRACTOR, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, loss or person with a general aggregate or policy limit of three million dollars (\$3,000,000) covering the provider and all medical staff assigned or authorized by the provider under this Contract.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. The policy shall state that coverage is claims made, and state the retroactive date. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

- b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and

COUNTY incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

If CONTRACTOR has any employees, CONTRACTOR also shall maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

Commercial General Liability and Employers Liability Insurance: Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or CG0002 or equivalent) for wrongful death, bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence.

The general commercial liability policy will contain an endorsement naming the COUNTY, its officials, officers, employees and agents as an additional insured (CG2010) and an endorsement that specifically states that CONTRACTOR's general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

Other Insurance Provisions:

- (1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (3) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (5) The CONTRACTOR shall maintain all required policies in force from the time

services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of this Contract.

Verification of Coverage and Acceptability of Insurers: Unless self-insured all insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing by the Franklin County Risk Manager. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- (1) The CONTRACTOR shall furnish the COUNTY with properly executed certificates of insurance which shall clearly evidence all required insurance prior to commencing work under this Contract. The certificates will, at a minimum, list limits of liability and coverage. If any of the required insurance is cancelled or non-renewed, notice shall be delivered in accordance with policy provisions, and CONTRACTOR shall promptly deliver such notice to the COUNTY.
- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY, its officials, officers, employees, or agents as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Franklin County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) If the CONTRACTOR or any subcontractor or sub-subcontractor has any employees, CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Franklin County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:

Franklin County Prosecuting Attorney's Office
Attn: Risk Manager
1016 North Fourth Avenue

Pasco, Washington 99301

- (6) If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-insured funding mechanism.

TERMINATION

- a. Either party may terminate this Contract without cause, by giving ninety (90) days written notice by certified mail. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.
- b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- c. If the CONTRACTOR materially breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.
- d. The COUNTY and CONTRACTOR agree that the term of this contract is twenty-four months, and shall automatically renew for another twenty-four months unless the COUNTY notifies the CONTRACTOR at least 60 days prior to the end of the original contract period that it does not want to continue the relationship. Should the CONTRACTOR wish to terminate the relationship, CONTRACTOR will provide the COUNTY with ninety (90) days written notice of its intent prior to the expiration date of November 31, 2022.

ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- a. The CONTRACTOR shall perform the terms of this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written

consent of the COUNTY's authorized representatives.

- b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

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. All waivers of any provision(s) of this Contract shall be in writing and signed by the waiving party's authorized representatives, and in the absence of such, no action or inaction shall be construed to be such a waiver.

INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in the FEE SCHEDULE of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.
- d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a reasonable written request to do so from the COUNTY'S contract representative or designee.

COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws,

rules and regulations in performing this Contract.

INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

NONDISCRIMINATION

The CONTRACTOR, its 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, or the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, or any other protected status.

OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. Where applicable, all reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the COUNTY. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless therefrom to the extent such use is not agreed to in writing by the CONTRACTOR.
- c. An electronic copy of all word processing documents shall be immediately submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

PATENT/COPYRIGHT INFRINGEMENT

Where applicable, the CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officials, officers, employees and agents, from and against any claimed action, cause or demand brought against the COUNTY, its officials, officers, employees and agents where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue

of this Contract, shall be brought to the attention of the COUNTY 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 CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

CONFIDENTIALITY

The CONTRACTOR, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the COUNTY or acquired by the COUNTY in performance of this Contract, except upon the prior written consent of the COUNTY's authorized representatives or an order entered by a court of competent jurisdiction. The CONTRACTOR shall promptly give the COUNTY written notice of any judicial proceeding seeking disclosure of such information.

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.
- d. 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 Franklin County, Washington.

SUCCESSORS AND ASSIGNS

The COUNTY, to the extent permitted by law, and the CONTRACTOR 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.

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 this Contract did not contain the particular provision held to be invalid.
- e. 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.

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.

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.

SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions; inspection and keeping of records and books; litigation hold notice; Public Records Act and confidentiality.

LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule.

PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq.* Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action

for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

MEDICAL RECORDS

Medical records prepared and maintained in the course of providing the medical services described here shall be the sole and separate property of the COUNTY. The Franklin County Sheriff's Office shall act as custodian of those records and provide facilities necessary for storage of such in the FCCC facility. The CONTRACTOR shall at all times during the term of this Contract, and after the term of this contract as necessary for regulatory compliance or litigation purposes, have access to such medical records. In the event this Contract is terminated for any reason or otherwise completed, all such medical records shall be available to the COUNTY, or other entity, organization, or persons providing medical services at FCCC. Such medical records shall not constitute records of a person confined in a facility referred to in RCW 70.48.100 and therefore not subject to the restrictions of confidentiality contained therein. In the event the Washington State Corrections Standards Board or successor standards organization promulgates standards, rules, or regulations in conflict with this understanding, the parties shall abide by such standards, rules, or regulations. COUNTY agrees to comply with all State and Federal laws and regulations regarding custody and use of all medical records. County will indemnify CONTRACTOR for damages, including attorney fees and costs, arising from any such failure by COUNTY to comply with such laws or regulations.

ACKNOWLEDGMENT

CONTRACTOR acknowledges that the Franklin County Courthouse, Public Safety Building, Justice Center and COUNTY facilities, and its offices and departments therein, contain records and information that is confidential or privileged by operation of law. As a result the CONTRACTOR acknowledges and agrees that in the course of performing this Contract its employees or agents shall at all times refrain from engaging in any activities that would expose them to, or others to, such confidential or privileged information. The parties to this Contract have executed this Contract to take effect as of the date written below.

DATED:

**FRANKLIN COUNTY BOARD OF
COMMISSIONERS**

Chairman

Chair Pro-Tem

Member

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

Attest:

Clerk of the Board

Approved as to form by:



Deputy Prosecuting Attorney

DATED:

CONTRACTOR:

- **Ronald W. Fleck, MD; R & B Fleck Enterprises, LLC; DBA Western Medical Resources, LLC**



Ronald W. Fleck, MD

02-18-2021