

Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: 9/23/2022	PREPARED BY: Tiffany Runge, Superior Court
Meeting Date Requested: 10/04/2022	PRESENTED BY: Tiffany Runge, Superior Court
ITEM: (Select One) <input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Brought Before the Board Time needed:	
SUBJECT: Adult Drug Court participant monitored drug screening collection services.	
FISCAL IMPACT: No fiscal impact.	
BACKGROUND: The Superior Court would like to enter into a Bi-County Resolution and Professional Service Contract with Valley Alcohol Council d/b/a Merit Resource Services to provide monitored urine drug screen collection at no charge to either Benton or Franklin Counties. The Superior Court Administrator, Tiffany Runge has determined that a Professional Services Contract with Valley Alcohol Council d/b/a Merit Resource Services would be the most efficient in meeting the day to day needs of Adult Drug Court for these required services.	
RECOMMENDATION: The Court recommends approval of the Resolution and Contract effective once signed by both the Benton and Franklin Board of County Commissioners through December 31, 2024.	
COORDINATION: Tiffany Runge, Superior Court Administrator, reviewed the agreement for content. Jennifer Johnson, Chief Civil Deputy Prosecuting Attorney reviewed the agreement and approved as to form.	
ATTACHMENTS: (Documents you are submitting to the Board) 1. (2) original Resolution 2. (2) original Professional Service Contract with Valley Alcohol Council d/b/a Merit Resource Services	
HANDLING / ROUTING: (2) Originals to be signed and provided to Tiffany Runge to hand-deliver to Benton County Commissioners' Office.	

I certify the above information is accurate and complete.


Tiffany Runge, Superior Court Administrator

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON;

IN THE MATTER OF AWARDING VALLEY ALCOHOL COUNCIL d/b/a MERIT RESOURCE SERVICES A PROFESSIONAL SERVICES CONTRACT TO PROVIDE OBSERVED URINE DRUG SCREEN COLLECTION

WHEREAS, per resolution 2021-233, "...for all contracts for non-public works services the county need not advertise or follow a formal competitive bidding procedure, but may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost"; and

WHEREAS, the Benton-Franklin Counties Superior Court Administrator recommends entering into a Professional Services Contract with Valley Alcohol Council d/b/a Merit Resource Services; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington and by the Board of Franklin County Commissioners, Franklin County Washington the Boards concur with the Superior Court Administrator's recommendation and hereby awards the Professional Service Contract to Valley Alcohol Council d/b/a Merit Resource Services at no cost to either Benton or Franklin Counties; and

BE IT FURTHER RESOLVED, that the Chairman is authorized to sign the attached Professional Service Contract; and

BE IT FURTHER RESOLVED, the term of the attached Contract commences once signed by the Board of County Commissioners for both Benton and Franklin Counties and expires on December 31, 2024.

DATED this ____ day of _____ 2022
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this ____ day of _____ 2022
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Chairman Pro Tem

Chairman Pro Tem

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Clerk of the Board

Clerk of the Board

Prepared by: T. Runge

BENTON-FRANKLIN COUNTIES
PROFESSIONAL SERVICES CONTRACT
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, (hereinafter “Benton-Franklin Counties”), for the Benton & Franklin Counties Superior Drug Court (hereinafter “Superior Drug Court”), and Valley Alcohol Council d/b/a Merit Resource Services (hereinafter “Contractor”).

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

PROGRAM GOALS

Services provided to the Superior Drug Court by Valley Alcohol Council d/b/a MERIT Resource Services (Contractor), will include observed urine drug screen collection. In the event that a same sex collector is unavailable, a monitored collection will be performed.

Contractor will operate and maintain a color line for the purposes of random drug screening on Superior Drug Court participants. The color line phone message and website will be updated with daily colors prior to 6:30 am each day. Weekday collection times will be 7:00 am to 7:00 pm. Weekend and Holiday collection times will be 8:00 am to 1:00 pm.

Contractor will maintain its state certifications as well as professional liability insurance.

Contractor will not bill Benton-Franklin Counties or Superior Drug Court, for any services not included in this contract.

DESCRIPTION OF SERVICES PROVIDED

Superior Drug Court will provide chain of custody, instant urinalysis testing device, collection cup, and collection hat for female donor necessary for urine drug screen collection. Contractor will provide urine specimen collection, confirmation testing for presumptive positive – denied specimens sent to Cordant, and Failure to Appear notifications at no charge to Superior Drug Court as long as CJTA funding allows. It is understood that negative and presumptive positive – agreed instant screen results will not be sent to Cordant for confirmation testing.

GENERAL TERMS AND CONDITIONS

In consideration of the covenants, conditions, performances, and provisions hereinafter contained, the parties hereto agree as follows:

1. **Definitions:** The words and phrases listed below, as used in the Contract, shall have the following definitions:

- A. "Contract" means this Benton-Franklin Counties and the Contractor Professional Services Contract and any Exhibits and other documents attached or incorporated by reference.
 - B. "CFR" means Code of Federal Regulations. All references in this Contract to CFR chapters or sections shall include any successor, amended, or replacement regulation. The CFR may be accessed at <https://www.govinfo.gov/help/crf>.
 - C. "Debarment" means an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.
 - D. "General Terms and Conditions" means the contractual provisions contained within this Contract, which govern the contractual relationship between Benton-Franklin Counties and the Contractor, under this Contract.
 - E. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - F. "Principals," which includes officials, officers, members of the Board of Directors, owner(s), or other person(s) with management or supervisory responsibilities relating to the transaction, for Contractor.
 - G. "RCW" means the Revised Code of Washington. All references in the Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. The RCW can be accessed at <http://apps.leg.wa.gov/rcw/>.
 - H. "Subcontract" means a separate contract between the Contractor and an individual or entity ("Subrecipient") to perform all or a portion of the duties and obligation that the Contractor shall perform pursuant to this Contract.
 - I. "USCA" means United States Code Annotated. All references to USCA chapter or sections in this Contract shall include any successor, amended, or replacement statute. The USCA may be accessed at <https://www.govinfo.gov/app/collection/uscode>.
 - J. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. The WAC can be accessed at <http://apps.leg.wa.gov/wac/>.
2. **Amendments:** This Contract, or any term or condition, may only be modified in writing and signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.

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 Superior Drug Court.

3. **Duration of Contract:** The term of this Contract shall begin once signed by the Board of County Commissioners, for Benton County, and Franklin County, and shall expire on December 31, 2024, or upon termination of CJTA funding, whichever occurs first.
4. **Assignment:** Except as otherwise provided herein, the Contractor shall not assign rights or obligations derived from this contract to a third party without the prior, written consent of the Benton-Franklin Counties and the written assumption of all of the Contractor's obligations in the Contract by the third party.
5. **Billing Limitations:** Superior Drug Court will provide chain of custody, instant urinalysis testing device, collection cup, and collection hat for female donor necessary for urine drug screen collection. The Contractor will provide urine specimen collection, confirmation testing for presumptive positive – denied specimens sent to Cordant, and Failure to Appear notifications at no charge to Benton-Franklin Counties or Superior Drug Court as long as CJTA funding allows. There will be no monthly billing provided CJTA funding is available.
6. **Compliance with Applicable Law:** At all times during the term of this Contract, the Contractor and Benton-Franklin Counties shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to non-discrimination laws and regulations.
7. **Confidentiality:** The parties shall use Personal Information and other confidential information gained by reason of this Contract only for the purpose of this Contract. Superior Drug Court and the Contractor shall not disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of the Contract and shall return or certify the destruction of such information if requested in writing by the party to this Contract that provided the information.
8. **Debarment Certification:** The Contractor, by signature to this Contract, certifies the Contractor, its Principals and any Subrecipients are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (debarred). The Contractor also agrees to include the above language notification requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify Benton-Franklin Counties and Superior Drug Court if, during the term of this Contract, the Contractor, its Principals or Subrecipients becomes debarred. Benton-Franklin Counties may immediately terminate this Contract by providing the Contractor written notice if the Contractor becomes debarred during the term of this Contract.
9. **Disputes:** Disputes between the Contractor and Benton-Franklin Counties, arising under and by virtue of the Contract, shall be brought to the attention of Benton-Franklin 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 Contractor shall be decided by the Benton-Franklin Counties' Contract

Representative or designee. All rulings, orders, instructions, and decisions of the Benton-Franklin Counties' Contract Representative or designee shall be final and conclusive, subject to the Contractor's right to seek judicial relief.

10. **Non-Waiver of Rights:** The parties agree that the excuse of 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 waving 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 in the absence of such, no action or inaction shall be construed to be such a waiver.
11. **Documentation for Reimbursement Requests:** At the Contractor's first request for reimbursement, Benton & Franklin Counties will require detailed back-up documentation for all expenditures. On subsequent invoices, the monthly activity report and a printout from the Contractor's accounting system listing the expenditures charged against the contract will be acceptable. All back-up documentation must be available to Benton-Franklin Counties and all other auditors, upon request. Reimbursement of expenditure for staff time spent on more than one source will require timesheets reflecting hours charged to the contract.
12. **Governing Law, Venue, and Jurisdiction:** This Agreement shall be governed by the laws of the State of Washington. Any action, suit, or judicial proceeding for the enforcement of this Agreement shall be brought in Benton-Franklin Counties Superior Court for the State of Washington. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.
13. **Independent Status:** For purposes of this Contract, the Contractor acknowledges that the Contractor is not an officer, employee, or agent of Benton or Franklin Counties. The Contractor shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of Benton or Franklin Counties. The Contractor shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of Benton or Franklin Counties. The Contractor shall indemnify and hold harmless Benton and Franklin Counties from all obligations to pay or withhold federal or state taxes or contributions on behalf of the Contractor or the Contractor's employees.

The parties agree that, for the purposes of this Contract, the Contractor is an independent contractor and neither the Contractor nor any employee of the Contractor is an employee of Benton or Franklin Counties. Neither the Contractor nor any employee of the Contractor is entitled to any benefits that Benton or Franklin Counties provide their employees. The Contractor is solely responsible for payment of any statutory workers compensation or employer's liability insurance as required by state law.

14. **Indemnification, Defense, and Hold Harmless:** To the fullest extent permitted by law including RCW 4.24.115, the Contractor shall indemnify, defend, and save harmless Benton and Franklin Counties and their respective officers, employees, agents, and volunteers from all claims, suits, or actions brought for injuries to, or death of any persons, or damages arising from or relating to the Contractor's performance of this Contract or in consequence of any negligence or breach of contract related to the Contractor's performance of this Contract caused in whole or in part by any act or omission by the Contractor or the agents or employees of the Contractor related to performance of this Contract. 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, or the Contractor's employees, agents or subcontractors.

15. **Contractor's Waiver of Employer's Immunity under Title 51 RCW:** Contractor intends that its obligations to indemnify, defend, and hold harmless set forth above in section 14 shall operate with full effect regardless of any provision to the contrary in Title 51 RCW, Washington's Industrial Insurance Act. Accordingly, the Contractor specifically assumes all potential liability for actions brought by employees of the Contractor against Benton County and Franklin County, their officers, employees, agents, and volunteers, and solely for the purpose of enforcing the Contract's obligations to indemnify, defend, and hold harmless set forth above in section 14, the Contractor specifically waives any immunity granted under the state industrial insurance law, Title 51 RCW. The parties have mutually negotiated this waiver. The Contractor shall similarly require that any subcontractor it retains in connection with its performance of this Agreement shall comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all liability for actions brought by employees of the subcontractor. The Contractor's obligations under Sections 14 and 15 shall survive termination and expiration of this Contract.

16. **Insurance:**

- A. Benton County and Franklin County each certify that it is insured as a member of the Washington Counties Risk Pool, and is otherwise self-insured, and can pay for losses for which it is found liable.
- B. The Contractor shall, with insurance carriers with a Best Rating of A-VII or better, maintain occurrence based comprehensive general liability insurance and automobile liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 general aggregate, as well as Workers Compensation Contingent Employers Liability with minimum limits of \$1,000,000 each accident or disease for each employee. Such insurance shall provide that Benton and Franklin Counties, their officers, employees, agents and volunteers are Primary Additional Insureds under such insurance. The coverage provided under such insurance for such Primary Additional Insureds shall be primary and not contributory to any other coverage that may be available to such Primary Additional Insureds. Prior to commencement of any work under this Agreement, the Contractor shall, provide proof of such insurance, and if requested, any policy pertaining to insurance required under this Agreement.
- C. **Automobile Liability:** The Contractor shall maintain, during the life of this Contract, Automobile Liability Insurance (ISO Form Number CA0001 or equivalent) covering any autos owned by the Contractor, or if the Contractor has no owned autos, any hired or non-owned autos, in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect Contractor from claims which may arise from the performance of this Contract, whether such operations are by the Contractor or by anyone directly or indirectly employed by the Contractor.

17. **Nondiscrimination:** The Contractor agrees that it shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, age, marital

status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (Chapter 49.60 RCW) or the Americans with Disabilities Act (42 USC 12101 et seq.). In the event the Contractor violates this provision, Benton-Franklin Counties may terminate this Contract immediately and bar the Contractor from performing any services for Benton County and/or Franklin County in the future.

18. **Order of Precedence:** In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:

- A. Applicable federal and State of Washington statutes and regulations;
- B. Special Terms and Conditions of this Contract;
- C. This Contract.

19. **Responsibility:** Each party to this Contract shall be responsible for the negligence of its officers, employees, and agents in the performance of this Contract to the extent allowed by law. No party to this Contract shall be responsible for the acts and/or omissions of entities or individuals not party to this Contract. Benton-Franklin Counties and the Contractor shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. Benton-Franklin Counties and the Contractor agree to notify the attorneys of record in any tort lawsuit where both are parties if either Benton-Franklin Counties or the Contractor enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

20. **Severability:** The provisions of this Contract are severable. If any court holds any provision of this Contract, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions of this Contract.

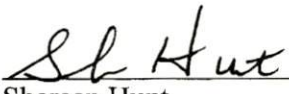

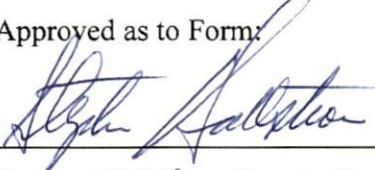
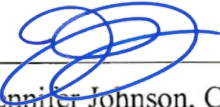
21. **Notices:** Any demand, request or notice which either party desires or may be required to make or deliver to the other shall be in writing and shall be deemed delivered when personally delivered, or when delivered by private courier service (such as Federal Express), or three days after being deposited in the United States mail, in registered or certified format, return receipt requested, addressed as follows:

Contractor: Shereen Hunt, Executive Director
Merit Resource Services
PO Box 997
Sunnyside, WA 98944

Drug Court: Kimberly Schuler
Adult Drug Court Case Manager
Benton & Franklin Counties
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective once signed by the Board of County Commissioners for Benton County and Franklin County.

The parties specifically certify that the provisions contained within this Contract are mutually negotiated.

Merit Resource Services  09/01/2022 Shereen Hunt Executive Director DATE	BENTON & FRANKLIN COUNTIES SUPERIOR COURT  9/02/2022 Tiffany Runge Court Administrator DATE
BENTON COUNTY APPROVAL Approved as to Form:  Stephen Hallstrom, Deputy Prosecuting Attorney Date 09/02/22 By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____ Attest: Clerk of the Board: _____	FRANKLIN COUNTY APPROVAL Approved as to Form:  Jennifer Johnson, Civil Deputy Prosecuting Attorney Date 9/6/22 By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____ Attest: Clerk of the Board: _____