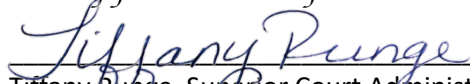


Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: 5/30/2023	PREPARED BY: Marshall Pickett & Tiffany Runge, Superior Court
Meeting Date Requested: 6/13/2023	PRESENTED BY: Marshall Pickett, Superior Court
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: Adult Drug Court participant alcohol monitoring equipment.	
FISCAL IMPACT: No fiscal impact. Funding awarded for the 2023 Budget.	
BACKGROUND: The Superior Court would like to enter into a Bi-County Resolution and Personal Service Contract with Moon Security Services, Inc to use SCRAM alcohol monitoring equipment. The Moon Security SCRAM monitoring devices will allow for the Adult Drug Court participants to be held accountable when it comes to drinking alcohol. The Adult Drug Court team will be able to monitor individuals closely in hopes of deterring the participant from drinking and driving. The Superior Court Adult Drug Court Coordinator, Marshall Pickett has determined that a Personal Services Contract with Moon Security Services, Inc. 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 June 1, 2023 through December 31, 2024.	
COORDINATION: Tiffany Runge, Superior Court Administrator, and Marshall Pickett, Adult Drug Court Coordinator, reviewed the agreement for content. Jeffrey Briggs, Chief Civil Deputy Prosecuting Attorney reviewed the agreement and approved as to form. Stephen Hallstrom, Senior Deputy Prosecuting Attorney reviewed the agreement and approved as to form.	
ATTACHMENTS: (Documents you are submitting to the Board) 1. (2) original Resolutions 2. (2) original Personal Service Contracts with Moon Security Services, Inc.	
HANDLING / ROUTING: (2) Originals to be signed and provided to Marshall Pickett 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 MOON SECURITY SERVICES, INC. A PERSONAL
SERVICES CONTRACT TO PROVIDE SECURE ELECTRONIC ALCOHOL MONITORING
EQUIPMENT AND ACCESSORIES NECESSARY TO IMPLEMENT SECURE CONTINUOUS
REMOTE ALCOHOL MONITORING**

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 Adult Drug Court Coordinator recommends entering into a Personal Services Contract with Moon Security Services, Inc.; **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 Adult Drug Court Coordinator's recommendation and hereby awards the Personal Service Contract to Moon Security Services, Inc. in an amount not to exceed \$25,000.00; and

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

BE IT FURTHER RESOLVED, the term of the attached Contract commences June 1, 2023 and expires on December 31, 2024.

DATED this ____ day of _____ 2023
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this ____ day of _____ 2023
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chair of the Board

Chair of the Board

Chair Pro Tem

Chair Pro Tem

Commissioner

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

Commissioner

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Clerk of the Board

Clerk of the Board

Prepared by: M. Pickett

**BENTON and FRANKLIN COUNTIES
PERSONAL SERVICES CONTRACT
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and FRANKLIN COUNTY, a political subdivision with its principal offices at 1016 N. 4th Avenue, Pasco, WA 99301 (hereinafter collectively referred to as "COUNTIES" by and for the "Benton-Franklin Counties Superior Courts" (and the "Benton-Franklin Counties Adult Drug Court")), and Moon Security Services, Inc., with its principal offices at 515 West Clark Street (POB Drawer B), Pasco, WA 99301, (hereinafter "CONTRACTOR" or "Equipment Supplier").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

- a. EXHIBIT A – Scope of Services
- b. EXHIBIT B – Equipment Replacement Pricing
- c. EXHIBIT C – SCRAMx/EHM Pricing Options
- d. EXHIBIT D – SCRAMx CAM Program Participant Agreement
- e. EXHIBIT E – Consumable Replenishment Formula

2. DURATION OF CONTRACT

The term of this Contract shall begin May 1, 2023, and shall expire on December 31, 2024. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES AND EQUIPMENT PROVIDED

- a. The CONTRACTOR shall provide the equipment and accessories necessary to implement the Secure Continuous Remote Alcohol Monitoring (SCRAMx) program, Electronic Home Monitoring/Global Positioning System (EHM/GPS) program, for the Benton-Franklin Counties Adult Drug Court (within the Benton-Franklin Counties Superior Courts). This will include inventory management, support with maintenance and replacement of defective, lost or damaged equipment. The Benton-Franklin Counties Adult Drug Court is responsible for ensuring that each SCRAMx Program Participant executes the SCRAMx Program Participant Agreement form in "Exhibit D", located on the SCRAMnet website, wherein each Program Participant accepts full financial responsibility for all lost, stolen and/or damaged equipment assigned to the Program Participant.

The CONTRACTOR will ensure that the Benton-Franklin Counties Adult Drug Court has all the necessary startup tools, which include: one (1) Direct Connect; one (1) pair of sheer

cutters; and one (1) torque screwdriver to properly install and remove the SCRAMx bracelets. The CONTRACTOR will timely provide faceplate kits and monthly consumables at no additional cost to the COUNTIES, pursuant to the CONTRACTOR'S Consumable Replenishment Formula in Exhibit E.

- b. The CONTRACTOR shall ensure inventory management and replacement equipment at no cost to the COUNTIES. The CONTRACTOR shall ensure that the program is supplied with all necessary SCRAMx equipment for Partner Supply Programs and its operation. The CONTRACTOR shall have the right to update, revise or replace equipment types and relevant pricing with a minimum of sixty (60) days advance written notice given to the Benton-Franklin Counties Adult Drug Court. The CONTRACTOR reserves the right to conduct periodic equipment audits, at a mutually agreeable time, date and place, in order to ensure the location and condition of the equipment provided to the Benton-Franklin Counties Adult Drug Court.
- c. The Benton-Franklin Counties Adult Drug Court staff, with reasonable advance notice, will facilitate, allow and assist with the on-site equipment audits, and allow reasonable access to all equipment provided by the CONTRACTOR, and will not refuse reasonable requests to assist in these audits. The CONTRACTOR shall have the right to update, revise or replace equipment types and relevant pricing, only with prior written approval from the COUNTIES.
- d. Equipment is the property of the CONTRACTOR and is only being utilized by the Benton-Franklin Counties Adult Drug Court, for the approved use of qualified Program Participants for the duration of each Program Participant's program requirement(s). The purchase of equipment by the Benton-Franklin Counties Adult Drug Court is neither expressed nor implied, and in no event shall this agreement be construed or otherwise interpreted as requiring the COUNTIES to purchase equipment, except as provided in paragraph (3)(f)(4).
- e. Additional CONTRACTOR Services
 - 1. The CONTRACTOR shall fill the needs of the Benton-Franklin Counties Adult Drug Court for equipment as identified herein, as usage increases or decreases.
 - 2. The CONTRACTOR shall be available to the Benton-Franklin County Adult Drug Court for any and all questions regarding the sum and substance of this contract, including without limitation, inventory and/or alerts.
 - 3. The CONTRACTOR shall provide a monthly invoice for days used in that specified month.

The following items shall be audited by the CONTRACTOR:

- 4. On site inventory provided to the Benton-Franklin Counties Adult Drug Court by the CONTRACTOR.

5. Reviewing the workload page as well as the Daily Action Report provided by Alcohol Monitoring Systems, Inc. (AMS) to ensure proper equipment maintenance.

f. Benton-Franklin Counties Adult Drug Court Servicing Requirements

1. Perform required maintenance of all SCRAMx equipment provided as stated by current AMS guidelines, and as hereafter amended, which are incorporated by reference as if fully set forth herein.
2. Properly manage all alerts for active Program Participants according to AMS guidelines.
3. If any SCRAMx or EHM/GPS equipment is stolen, damaged, lost or absconded with, by a Program Participant, the COUNTIES will forward appropriate cases regarding potential theft charges, along with the SCRAMx Participant Agreement as referenced in Section 3 of this Contract, to the CONTRACTOR. Prosecuting authority will exercise appropriate prosecutorial discretion, which may include seeking restitution on behalf of the CONTRACTOR. Regardless of whether criminal charges are filed, the COUNTIES, upon request, will provide CONTRACTOR with records consistent with each COUNTIES' obligations under the Public Records Act, Chapter 42.56 RCW.
4. The COUNTIES will be financially responsible to pay the CONTRACTOR for all lost, stolen, absconded and damaged equipment, ONLY if the Benton-Franklin Counties Adult Drug Court fails to execute a signed SCRAMx Participant Program Agreement (EXHIBIT D) with a Program Participant. The pricing guideline for the equipment is identified in "Exhibit B" of this written contract.
5. The Benton-Franklin Counties Adult Drug Court will be required to manage their Returned Merchandise (RMA) that is damaged, needing calibration, or replaced as required by AMS.
6. The Benton-Franklin Counties Adult Drug Court will be required to clean the SCRAMx bracelets after each Program Participant usage, as required by AMS guidelines, which are incorporated into this contract by reference herein. Cleaning solution will be provided to the Benton-Franklin Counties by the CONTRACTOR at no additional charge.

g. On-Site Staffing

The CONTRACTOR shall ensure that a designated SCRAMx technician shall provide intensive support and training on the technology and proper implementation of the SCRAMx Program. The CONTRACTOR shall ensure that the technical staff, assigned to the program is adequately trained in the SCRAMx technology, including installations, de-installations and the SCRAMnet website. This shall include how to troubleshoot equipment issues and all alerts.

The CONTRACTOR shall provide ongoing technical expertise and support to the Benton Franklin County Adult Drug Court staff to ensure effective SCRAMx services. Designated

CONTRACTOR staff and program leaders shall be available by telephone at any time to assist with technical issues, inventory management and program management. The CONTRACTOR shall be responsible for all program monitoring, data management, court reporting and participant money collections. Court testimony and the handling of all contested reports shall be the responsibility of the CONTRACTOR. If testimony services are required, the CONTRACTOR will be provided forty-eight (48) hours business notice if possible, and the option of providing telephonic testimony, if approved by the tribunal with jurisdiction. If "live" testimony is required for Court at request of either COUNTY, CONTRACTOR shall be available without any additional charge, to include without limitation, time, travel and *per diem* except as otherwise required by law.

h. Approved Service Locations

Benton-Franklin Counties Adult Drug Court is approved to install, monitor and de-install the SCRAMx bracelets and clients at the following location(s):

Benton County Adult Drug - Kennewick, WA and Franklin County Adult Drug Court - Pasco, WA

A detailed description of the services to be performed and supplies provided by the CONTRACTOR is set forth in Exhibit A, "Scope of Services", Exhibit B, "Equipment Replacement Pricing" and Exhibit C, "SCRAMx/EHM Pricing Options", attached hereto and incorporated herein by reference.

- i. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTIES.
- j. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- k. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- l. The CONTRACTOR shall confer with the COUNTIES 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 requested by the COUNTIES.

4. 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' Contract Representatives are as follows:

- a. For CONTRACTOR: Tom Pitcher, General Manager
Moon Security Services, Inc.
515 West Clark Street (POB Drawer B)

Pasco, WA 99301
Phone: (509) 545-1881 ext. 3811
Email: tpitcher@moonsecurity.com

- b. For COUNTIES: Marshall Pickett, Adult Drug Court Coordinator
Benton-Franklin Counties Superior Court
7122 W. Okanogan Place, Suite A130
Kennewick, WA 99336
Phone: (509) 736-3071
Email: marshall.pickett@co.benton.wa.us

5. COMPENSATION

- a. For the services performed under this Contract, the CONTRACTOR shall be paid in accordance to **Exhibits A, B and/or C**. A detailed description of the compensation to be paid by the COUNTIES is set forth in **Exhibits A, B and/or C**, which are attached hereto and incorporated herein by reference.
- b. The maximum total amount payable by the COUNTIES to the CONTRACTOR under this Contract shall not exceed \$25,000.00.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR may, in accordance with **Exhibit A, B and/or C**, submit invoices to the COUNTIES 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 COUNTIES during the billing period. The COUNTIES 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.
- e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the reasonable satisfaction of the Benton-Franklin Counties Adult Drug Court.
- f. 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 Benton-Franklin Counties Adult Drug Court, the COUNTIES may, in their 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.
- g. 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.

6. 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 COUNTIES.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by all parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by all parties.

7. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTIES and their officers, officials, employees and agents, from and against any and all third-party claims, actions, suits, liability, losses, 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 arising in connection with the work performed and/or from the services rendered pursuant to this Agreement, or caused or occasioned in whole or in part by reason of the presence of CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTIES. PROVIDED, that CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of, the sole negligence of the COUNTIES or their officers, officials, employees or agents.
- b. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTIES and their officers, officials, employees and agents, from and against any and all third-party claims, actions, suits, liability, losses, 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 arising directly from the services rendered by Contractor pursuant to this Agreement.
- c. In any and all claims against the COUNTIES and their officers, officials, employees and agents by any employee of the CONTRACTOR, any 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.

- d. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss directly arising 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.

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

- a. **Professional Liability Insurance:** Prior to the start of work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) each claim and in the aggregate. Such insurance will be provided by an insurance carrier with a Best's Rating of not less than A-VII.

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 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. If the policy is claims-made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. CONTRACTOR shall annually provide COUNTIES 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 and employees of any subcontractor or sub-subcontractor. 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 COUNTIES for recovery of damages to the extent they are covered by workers compensation and employer's liability.

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTIES incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTIES. 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 COUNTIES by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTIES to CONTRACTOR for performance of this Contract.

- c. **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 equivalent) to protect the CONTRACTOR from claims for wrongful death, bodily injury, personal injury, and property damage that may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury and Advertising Injury
\$1,000,000 Each Occurrence

The commercial general liability policy must contain an endorsement naming the COUNTIES and its elected and appointed officials, employees and agents as an Additional Insured and an endorsement that specifically states that CONTRACTOR'S commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTIES.

The CONTRACTOR must provide commercial general liability coverage that does not exclude activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. The Commercial General Liability policy covers liability assumed in an insured contract, but only to the extent that the underlying claim is covered by the policy, *i.e.*, bodily injury and property damage as defined in the policy. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

CONTRACTOR shall also provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

\$1,000,000 Each Accident
\$1,000,000 Policy Limit for Disease

\$1,000,000 Each Employee for Disease

d. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTIES or its elected and appointed officers, officials, employees or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible or risk retention maintained or participated in by the COUNTIES shall be excess and not contributory to CONTRACTOR'S insurance policies.
2. The CONTRACTOR'S will provide a copy of the additional insured provisions.
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 CONTRACTOR shall furnish separate certificates and endorsement for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
5. 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. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTIES shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**
6. 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. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on a claims made form.
7. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis. Waiver of subrogation is not available for Professional Liability policy.

8. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

e. Verification of Coverage and Acceptability of Insurers:

All insurance required under this Contract shall be issued by companies authorized to do business under the laws of the State of Washington, and have an A. M. Best's rating of at least A-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 Benton 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 Chapter 284-15 WAC.

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability and Workmen's Compensation, shall specifically include the COUNTIES and its elected officials, employees and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTIES. Any insurance or self-insurance maintained by the COUNTIES and its elected or appointed officials, employees and agents shall be excess of the CONTRACTOR'S insurance and shall not contribute to it. Notice of cancellation will be provided by the CONTRACTOR.
2. Certificates of Liability Insurance, with endorsements attached, are to be provided to the COUNTIES' Contract Representative referenced in Section 4.b.
3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTIES' Contract Representative referenced in Section 4. b.
4. The CONTRACTOR or its broker shall provide a copy of any and all Certificate of Insurance, and any endorsements specified in this Contract upon request COUNTIES Risk Managers, at the following address: Benton County Risk Manager, 7122 W. Okanogan Place, STE E330, Kennewick, WA 99336 and the Franklin County Risk Manager, at the following address: 1016 N. 4th Ave., Pasco, WA 99301.

9. 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 CONTRACTOR. In that event, the COUNTIES shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the

Contract up to the date of termination 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 COUNTIES may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by the COUNTIES to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTIES, the COUNTIES may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTIES shall pay the CONTRACTOR only for the costs of services accepted by the COUNTIES, in accordance with the Compensation Section of this Contract.

10. 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, such consent shall not be unreasonably withheld of the COUNTIES.
- 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 exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. 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 in the absence of such, no action or inaction shall be construed to be such a waiver.

12. 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 COUNTIES. 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 Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are

entitled to any COUNTIES 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 COUNTIES 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, deem to be, act or purport to act as an employee, agent, or representative of the COUNTIES.
- d. THE CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law that 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 written request to do so from the COUNTIES contract representative or designee.

13. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

14. INSPECTION OF BOOKS AND RECORDS

The COUNTIES may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the COUNTIES upon request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. The CONTRACTOR retains ownership of any of its data, and other materials created prior to this Agreement, even if used in the fulfillment of its obligations under this Agreement. The COUNTIES' agree that if they use any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, they do so at their sole risk and they agree to hold the CONTRACTOR harmless therefrom to the extent such use is not agreed to in writing by the CONTRACTOR.
- b. An electronic copy of all word processing documents shall be submitted to the COUNTIES

upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTIES.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify and defend the COUNTIES and their officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the COUNTIES, 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 COUNTIES of any notice of such claim.

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTIES directly, and/or by and through the Benton-Franklin Counties Adult Drug Court, 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 CONTRACTOR 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 CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

The CONTRACTOR and its employees, subcontractors, and subcontractors' employees shall maintain the confidentiality of all information provided by the COUNTIES, including without limitation, the Benton-Franklin Counties Adult Drug Court, or acquired by the COUNTIES, including without limitation, the Benton-Franklin Counties Adult Drug Court, in performance of this Contract, except upon the prior written consent of the COUNTIES or an order entered by a court of competent jurisdiction. The CONTRACTOR shall promptly give the COUNTIES written notice of any judicial proceeding seeking disclosure of such information.

20. 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 as determined by the Washington Administrative Office of the Courts.

21. SUCCESSORS AND ASSIGNS

The COUNTIES, to the extent permitted by law, and the CONTRACTOR each bind themselves and 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.

22. 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.
- 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.

23. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of their agreement. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

24. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice shall be deemed to be given three (3) days following the date of mailing, or immediately, if personally served.

25. 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 (Sections 7 and 17); extended reporting period requirements for professional liability insurance (Section 8(a)); inspection and keeping of records and books (Section 14); litigation hold notice (Section 26); Public Records Act (Section 27) and confidentiality (Section 19).

26. LITIGATION HOLD NOTICE

In the event the COUNTIES learn of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTIES 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 COUNTIES is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out above in Section 14.

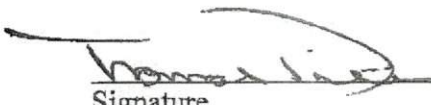
27. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTIES are governmental entities and as such are subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that the COUNTIES may be required by virtue of that Act to disclose any records related to this Contract actually in their possession or in CONTRACTOR'S possession. In the event either COUNTY receives a request for identifiable records it reasonably believes may be wholly or partially within the possession of CONTRACTOR, that COUNTY may forward the request to the CONTRACTOR. Upon receipt of such request, the CONTRACTOR will have no more than ten (10) business days to provide any responsive records within its possession to the COUNTY. Records to be provided may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTIES that it regards as confidential or proprietary, CONTRACTOR 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 COUNTIES release of records covered under the Public Records Act. The COUNTIES agree to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act that 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.

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective on May 1, 2023.


The parties specifically certify that the provisions contained within Section 8 are mutually negotiated.

MOON SECURITY


Signature _____ Date 5/9/23

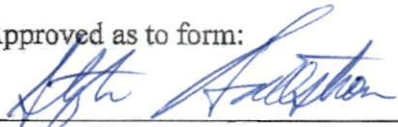
General Manager
Title

**BENTON FRANKLIN COUNTIES
SUPERIOR COURT**


Marshall Pickett _____ Date 5/25/2023
Adult Drug Court Coordinator

BENTON COUNTY APPROVAL

Approved as to form:



Stephen Hallstrom, Deputy Prosecuting
Attorney

By: _____

Name: _____

Title: Chair, Board of Commissioners

Date: _____

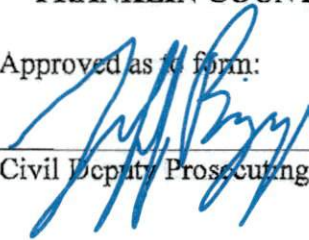
Attest:

Clerk to the Board

Date: _____

FRANKLIN COUNTY APPROVAL

Approved as to form:



Civil Deputy Prosecuting Attorney

By: _____

Name: _____

Title: Chair, Board of Commissioners

Date: _____

Attest:

Clerk to the Board

Date: _____