

AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232**

Prepared by:
Gail Hall, Judy Kendall, Tammi Spencer

Department: Human Resources

Requested Agenda Date: 01/19/2021

Presenting: Jacqui Lindsay

Board of County Commissioners Record Assigned
BOCC Agreement

012 - 2021

Yakima County, WA

APPROVED FOR AGENDA:

 Consent Regular
Board of County Commissioners Determined

Document Title:

AGREEMENT between Yakima County and Minert & Associates, Inc. Concerning Testing, Collection, & Clearinghouse Services

Action Requested: *Check Applicable Box*

PASS RESOLUTION EXECUTE or AMEND **AGREEMENT CONTRACT** or GRANT
 ISSUE PROCLAMATION PASS ORDINANCE OTHER _____

Describe Fiscal Impact:

Background Information:

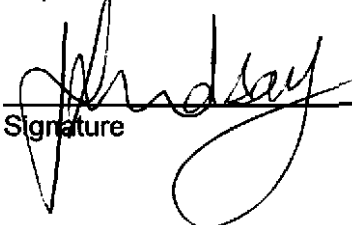
This Agreement/Contract supersedes the contract dated November 26, 2019.

Summary & Recommendation:

HR recommends the approval of the agreement.

Motion:

Department Head/ Elected Official



Signature

**AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial**

Late Agenda Requests Require BOCC Chairman Signature:

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT/CONTRACT **supersedes the contract dated November 26, 2019** between YAKIMA COUNTY, Washington, hereinafter "County", whose address is 128 North 2nd Street, Yakima, Washington 98901, and "Contractor", more specifically identified as

Name: **Minert & Associates, Inc.**
Street: P.O. Box 568
City, State Zip: Meridian, ID 83680
Federal Tax I.D. No.: 451010851

BOCC Agreement

012-2021

Yakima County, WA

WITNESSETH:

In consideration of the terms and conditions contained, the parties hereto agree as follows:

- 1. Project.** Contractor agrees to do all work and furnish all materials necessary for performing the work in accordance with this agreement.
- 2. Amendments.** This agreement contains all terms and conditions agreed upon by the parties. No change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and executed by both parties. All terms of the attached bid documents are incorporated herein by this reference.
- 3. Consideration.** In addition to a \$175.00 annual account administration fee, The County shall compensate Contractor at the rate for each service provided:

Test and Collection Services:

DOT Drug Test:	\$32/test
Lab Non-DOT Drug Test:	\$28/test
Instant Non-DOT Drug Test:	\$28/test
Agency/Clinic Collection Fee:	The County will reimburse Contractor for the amount charged by the collecting clinic or agency.
Confirmation fee (if instant test is inconclusive)	\$17
Alcohol Test:	The County will reimburse Contractor for the Alcohol Test amount charged by the collecting clinic or agency.
Travel fee (locations over 15 miles roundtrip):	\$.55/mile
After-hours testing for onsite collection:	\$50 in addition to test fees as listed above

Clearinghouse Services:

Report violations to the clearinghouse:	No Fee
Report return-to-duty results to clearinghouse:	No Fee
Pre-employment queries:	\$15/ person
Annual queries:	\$15/ person

In addition to the above mentioned services, Contractor agrees to provide the following services to Yakima County and upon request, at no additional cost:

- Policy development
- Online web-based data management and storage
- Compliance and audit assistance
- Supervisor Training
- Computer generated random selection of employees
- Medical Review Officer (MRO) services for employees testing positive
- Semi-annual/annual statistical reporting

- 4. Independent contractor.** The parties agree that, for the purposes of this agreement, the Contractor is an independent contractor and neither the Contractor nor any employee of the Contractor is an employee of the County. Neither the Contractor nor any employee of the Contractor is entitled to any benefits that Yakima County provides its employees. The Contractor is solely responsible for payment of any statutory worker's compensation or employer's liability insurance as required by state law.
- 5. 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, veteran status, pregnancy, 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 (RCW chapter 49.60) or the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) or any other applicable state, federal or local law, rule or regulation. The Contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to subject to this agreement.

Pay Transparency Nondiscrimination Provision: The contractor will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

- 6. Assignment.** The Contractor shall not assign or subcontract any portion of the contracted activities without obtaining prior written approval from the County.
- 7. Termination.** Either party may terminate this contract upon sixty days written notice sent by certified mail to the addresses listed above.
- 8. Indemnification, Defense, and Hold Harmless:** To the fullest extent permitted by law including RCW 4.24.115, the Contractor shall indemnify, defend, and hold harmless the County and its 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 Agreement or in consequence of any negligence or breach of contract related to the Contractor's performance of this Agreement 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 Agreement.

9. Insurance: The Contractor agrees that at all times during the life of this contract that Contractor will maintain on a primary and non-contributory basis and at its sole expense, the insurance coverage limits, and endorsements described below. All such insurance shall not be subject to any deductible or self-insured retention (SIR). There shall be no cancellation, material change, reduction in limits or intent not to renew the insurance coverage(s) without 30 days written notice from the contractor or its insurer(s) to Yakima County. The requirements contained herein, as well as the County's or designee's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this contract.

A. Commercial General Liability Insurance: Contractor agrees to maintain a policy with a limit of liability of not less than two million (\$2,000,000.00) each occurrence and five million (\$5,000,000.00) General Aggregate coverage. Insurance shall be written on ISO occurrence form CG 00 01 or an alternative form providing equal or broader liability coverage. Such coverage shall not contain any endorsement(s) excluding or limited Products Completed, Operations, or Contractual Liability and/or Cross Liability. The County shall be named as Additional Insured under the coverage with respect to the work performed under this agreement.

B. Workers' Compensation: Contractor shall maintain coverage at limits as legally mandated by the Industrial Insurance Laws of the State of Washington.

C. Professional Liability Insurance: Such professional liability insurance shall be maintained in an amount not less than one million dollars (\$1,000,000.00), combined single limit per claim/aggregate. The Appellate Representation Provider further agrees that it shall have sole and full responsibility for the payment of any funds where such payments are occasioned by the professional negligence of its professional employees and where such payments are not covered by any professional liability insurance, including but not limited to the amount of the deductible under the insurance policy.

D. Other Insurance Provisions: Contractor agrees that the insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability Insurance:

(i) The Contractors' insurance coverage shall be primary insurance as respects those who are Additional Insureds under this agreement. Any insurance, self-insurance or insurance pool coverage maintained by the County shall be in excess of the Contractor's insurance and shall not contribute to it.

(ii) The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.

E. 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 15 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 the County and its officers, employees, agents, and volunteers, and, solely for the purpose of enforcing the Contractor's obligations to indemnify, defend, and hold harmless set forth above in section 15, 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.

F. Verification of Coverage: Prior to execution of this agreement, Contractor shall furnish the County with original Certificates of Insurance, and a copy of any amendatory endorsements, including without limitation, the Additional Insured endorsement, evidencing the insurance requirements.

- 10. Laws, venue, 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 the Superior Court for the State of Washington in Yakima County, Washington.
- 11. Term.** The term of this agreement shall be from the date of execution to **December 31, 2021**, and may be extended from year to year, not to exceed five years, by mutual written consent of the parties.
- 12. Confidentiality:** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. The County 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 this Agreement and shall return or certify the destruction of such information if requested in writing by the party to this Agreement that provided the information.
- 13. Records:** The Contractor agrees to maintain records and documents which accurately reflect all direct and indirect costs related to the delivery of contracted services. The Contractor further agrees to retain all fiscal and program records and other material relevant to this Agreement for at least seven years. Fiscal records must be retained until all audits are resolved.
- 14. Inspection:** The Contractor shall, at no cost, provide to the County, and the Office of the State Auditor reasonable access to the Contractor's place of business and the Contractor's records. These inspection rights are intended to allow Contractor and the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Agreement terms. These inspection rights shall survive seven years following this Agreement's termination or expiration.

- 15. Termination due to change in funding:** If the funds Yakima County relied upon to establish this Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, Yakima County may immediately terminate this Agreement by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice.
- 16. Waiver:** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement. Only a majority vote of a quorum of the Yakima County Board of County Commissioners has the authority to waive any term or condition of this Agreement on behalf of the County.
- 17. Severability:** If any term of this Agreement is held invalid by any court, the remainder of the Agreement remains valid and in full force and effect.

DONE this _____ day of _____, 2021.

CONTRACTOR

Signature: [Signature]
Garett Goodwin- Account Manager

Date: 12/31/20

**BOARD OF YAKIMA
COUNTY COMMISSIONERS**

LaDon Linde, Commissioner

Amanda McKinney, Commissioner

YAKIMA COUNTY DEPARTMENT

Jacqui Lindsay
Department Head Printed Name

[Signature]
Department Head/Elected Official Signature

Date: 12/31/2020

Ron Anderson, Chairman
*Constituting the Board of County Commissioners
for Yakima County, Washington*

Attest:

Julie Lawrence, Clerk of the Board

Approved as to form:
[Signature]
Deputy Prosecuting Attorney

BOCC Agreement

012 - 2021

Yakima County, WA