



PROFESSIONAL SERVICES AGREEMENT

Contract Number:

20-027

THIS AGREEMENT is entered into between COWLITZ COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Cowlitz County") and

Name: Columbia Wellness
Address: 921 14th Ave
Longview, WA 98632
Phone No: (360) 423-0203

(hereinafter called "Contractor").

This Agreement is comprised of:

- Attachment A – Scope of Work
- Attachment B – Compensation
- Attachment C – General Conditions
- Attachment D – Special Terms and Conditions and Retirement Status Form (signature required)
- Attachment E – Confidential Information Security Requirements
- Attachment F – Data Use, Security, and Confidentiality
- Exhibit A – HCA Contract and Amendment
- Exhibit B – User Agreement on Non-Disclosure of Confidential Information

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 1st day of July, 2020 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 30th day of June, 2021.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 20____.

CONTRACTOR:

BOARD OF COUNTY COMMISSIONERS
OF COWLITZ COUNTY, WASHINGTON

Signature

Joe Gardner, Chairman

Dennis P. Weber, Commissioner

Print name:

Arne Mortensen, Commissioner

Title:

ATTEST:

CONTRACT HAS BEEN APPROVED AS TO
FORM BY COWLITZ COUNTY
PROSECUTING ATTORNEY

_____, Clerk of the Board

Date _____

SCOPE OF WORK

The contractor shall ensure services, and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

1. Definitions

- a. "American Society of Addiction Medicine (ASAM)" means the six dimensions to identify the intensity of treatment services that best fits the individual's needs and provides a common language of holistic, biopsychosocial assessment, and treatment across addiction treatment, physical health, and mental health services, which also addresses the spiritual issues relevant in recovery.
- b. "Assessments" means the activities conducted to evaluate an individual to determine if the individual has a substance use disorder and determine placement in accordance with the American Society of Addiction Medicine (ASAM) criteria.
- c. "Brief Intervention" means a time limited, structured behavioral intervention using substance use disorder brief intervention techniques, such as evidence-based motivational interviewing techniques, and referral to treatment services when indicated. Services may be provided at, but not limited to, sites exterior to treatment facilities such as hospitals, medical clinics, schools or other non-traditional settings.
- d. "Case Management" or "Case Management Services" means services provided by a Substance Use Disorder Professional (SUDP) or Substance Use Disorder Professional Trainee (SUDPT) licensed by the Washington Department of Health, or a person under the direct clinical supervision of a SUDP, to individuals assessed as needing treatment and admitted into treatment.
- e. "Continuity of Care" means the provision of continuous care for chronic or acute medical and behavioral health conditions to maintain care that has started or been authorized to start as the individual transitions between: facility to home; facility to another facility; providers or service areas; managed care contractors; and Medicaid fee-for-service and managed care arrangements. Continuity of Care occurs in a manner that prevents secondary illness, health care complications, or re-hospitalization; and promotes optimum health recovery.
- f. "Criminal Justice Treatment Account (CJTA)" means the account created by Washington State Legislature that may be expended solely for: substance use disorder treatment and treatment support services for individuals with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington State (RCW 71.24.580).
- g. "Culturally and Linguistically Appropriate Services (CLAS)" means the national standards in health and health care intended to advance health equity, improve quality, and eliminate health disparities by establishing a blueprint for health and health care organizations.
- h. "Division of Behavioral Health and Recover" or "DBHR" means the Health Care Authority's Division of Behavioral Health and Recovery, and its employees and authorized agents.
- i. "Drug Court" means a court utilizing a program structured to achieve both a reduction in criminal recidivism and an increase in the likelihood of rehabilitation through continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives (RCW 2.30.020).
- j. "Evidence-based Practice" or "EBP" means a prevention or treatment service or practice that has been validated by some form of documented research evidence and is appropriate for use with individuals with a substance use disorder that are involved in the

criminal justice system. EBP also means a program or practice that has been tested where the weight of the evidence from review demonstrates sustained improvements in at least one outcome, and/or a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

- k. "Individual" means any person in the criminal justice system who is in need of behavioral health services, regardless of income, ability to pay, insurance status or county of residence.
- l. "Intensive Outpatient Treatment" means services provided in a non-residential intensive patient centered outpatient program for treatment of substance use disorders. The service as described satisfies the level of intensity in ASAM Level 2.1.
- m. "Interim Services" means services to individuals who have been denied admissions to a treatment program on the basis of the lack of the capacity to reduce the adverse health effects of substance abuse, promote the health of the individual, and reduce the risk of transmission of disease. Such services are provided until the individual is admitted to a treatment program. Services include referral for prenatal care for a pregnant patient, brief screening activities, the development of a service plan, individual or group contacts to assist the person either directly or by way of referral in meeting his/her basic needs, updates to advise him/her of treatment availability, and information to prepare him/her for treatment, counseling, education, and referral regarding HIC and tuberculosis (TB) education, if necessary referral to treatment for HIC and TB.
- n. "Involuntary Commitment Investigations and Treatment" means (566.44) – costs incurred for services employed to identify and evaluate alcohol and drug involved individuals requiring protective custody, detention, or involuntary commitment services in accordance with RCW 70.96A.120-140. Costs include case finding, investigation activities, assessment activities, and legal proceedings associated with these cases.
- o. "Outpatient Treatment Group and Individual" means services provided in a non-residential substance use disorder treatment facility including assessment and case management. Outpatient treatment services must meet the criteria in the specific modality provisions set forth in WAC 388-877B. Services are specific to client populations and broken out between group and individual therapy. (The service as described satisfies the level of intensity in ASAM Level 1)
- p. "Outreach" or "Community Outreach" means identification of hard-to-reach Individuals with a possible SUD and engagement of these individuals in assessment and ongoing treatment services as necessary.
- q. "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in this subsection but does not meet the full criteria for evidence-based (RCW 2.30.020).
- r. "Recovery Support Services (RSS)" means services that are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills. RSS include, but are not limited to, to the following services: Supported employment services, supportive housing services, peer support services, wraparound facilitation services, and any other services that are conducive to an individual's recovery in a Substance Use Disorder (SUD) Program (WAC 246-341-0718).
- s. "Substance Use Disorder (SUD)" means a problematic pattern of using alcohol or another substance that results in the impairment in daily life or noticeable distress; and, whereby

the individual continues use despite leading to clinically significant impairment or distress as categorized in the DSM-5.

- t. "Substance Use Disorder Professional (SUDP)" means an individual who is certified according to RCW 18.205.020 and the certification requirements of WAC 246-811-030 to provide SUD services.
 - u. "Substance Use Disorder Professional Trainee (SUDPT)" means an individual working toward the education and experience requirements for certification as a chemical dependency professional, and who has been credentialed as a CDPT.
 - v. "Therapeutic Courts" means a court utilizing a program or programs structured to achieve both a reduction in recidivism and an increase in the likelihood of rehabilitation, or to reduce child abuse and neglect, out-of-home placements of children, termination of parental rights, and substance use and mental health symptoms among parents or guardians and their children through continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives (RCW 2.30.020).
 - w. "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in Chapter 246-341 WAC.
 - x. "Treatment Support" means services such as transportation to or from inpatient or outpatient treatment services when no viable alternative exists.
 - y. Urinalysis (UA) Testing – Provide UA testing at the request of Drug Court for Drug Court clients.
 - z. "Washington State Jail" or "Jail" means any city, county, regional, or tribal jail operation in the state of Washington.
2. Purpose

Contractor will provide treatment and recovery support services, funded by Criminal Justice Treatment Account funds, to individuals in the criminal justice system in accordance with RCW 71.24.580 and RCW 2.30.030, as applicable.

3. CJTA Funding – Allowable Services in the Jail
 - a. Substance Use Disorder treatment in the Jail

If CJTA funds are utilized for these purposes, the Contractor must provide treatment in the jail according to the following:

 - i. Identify and provide transition services to persons with substance use disorder, who meet the CJTA requirements as defined in RCW 71.24.580, to expedite and facilitate their return to the community
 - ii. Continue treatment services with individuals who were engaged in community-based treatment prior to their incarceration, with the intent to complete the outpatient treatment episode
 - iii. Initiate outpatient treatment services with individuals who will be released and transition into community-based treatment
 - iv. The following treatment modalities may be provided through CJTA funding in the jail: Engaging individuals in SUD treatment; Screening, Assessing, and inducting individuals on MOUD; Referral to SUD services; Providing continuity of care; and Planning for an individual's transition from Jail.
 - b. CJTA funds may not supplement or supplant any currently funded programs that previously existed in a Jail environment.
4. Services will be provided using acknowledged best practice (or treatment strategy) that can be documented in published research (including both Evidenced-based Practice and Research-based).
5. Coordinate and collaborate with County staff as necessary, including therapeutic court staff and jail staff, for provision of CJTA funded services.

6. Data and Reporting: The contractor will submit reports no later than the dates outlined in the following reporting schedule and will include all information requested below.

Type of Report	Time Period	Due Date
Invoice/Expense Report	Monthly	10 th of month following month of expense
Programmatic Treatment Report (PTR)	Monthly	10 th of month following month of service
Quarterly Progress Report (QPR)	Quarterly	10 th of month following quarter of service

- a. The Contractor shall ensure that staffing is sufficient to support CJTA-related data analytics and related data systems to oversee all data interfaces and support specific reporting requirements under this Contract.
 - b. There are two program reports that the Contractor will be responsible for submitting to the County: The Quarterly Progress Report (QPR) and the Programmatic Treatment Report (PRT):
 1. The Contractor will be responsible for submitting the QPR. The County will provide the Contractor with a template form that will report on the following program elements:
 1. Number of individuals served under CJTA funding for that time period
 2. Barriers to providing services to the Criminal Justice Population
 3. Strategies to overcome the identified barriers
 4. Training and Technical assistance needs
 5. Success stories or narratives from individuals receiving CJTA services
 6. If a Therapeutic Court receives CJTA funded services, the number of admissions of individuals into the program who were either already on MOUD, referred to MOUD, or were provided information regarding MOUD.
 2. The Contractor is responsible for submitting the PTR each month through a Secure File Transfer (SFT) system established with the County. The County will provide the Contractor with an excel workbook template that will capture a variety of demographic and programmatic data. In addition, this process will include the following:
 - i. The Contractor must ensure they have the bandwidth to complete all data elements requested in the PTR.
 - ii. The Contractor must enter all data applicable to the services provided.
 - iii. The Contractor will work with the County to ensure that any applicable Release of Information (ROI) forms are updated to account for the sharing of Personal Health Information (PHI) with the County and with the Health Care Authority.
7. Additional Requirements: The contractor will maintain and make available, if requested, documentation demonstrating accomplishments of the contract. Such documentation may include, but is not limited to, the following:
- a. Services provided
 - b. Number of hours of service
 - c. Data Collection
 - d. Completed evaluation tools
 - e. Backup reports/data for invoicing.
8. Site Visits: The contractor will coordinate visits with the County Project Manager for contract compliance, organizational due diligence, program evaluation, technical assistance, and Continuous Quality Improvement.

COMPENSATION

As consideration for services, as described in the Scope of Work section of this Agreement, the County agrees to pay the Contractor based on the specific conditions below, a sum not to exceed budget amounts of \$34,000 during the period July 1, 2020 through June 30, 2021.

1. Specific Payment Conditions:
 - a. The County will reimburse the Contractor for travel rates (mileage, meals, etc.) not exceeding those established by the Cowlitz County Board of Commissioners.
 - b. Source of Funds. The maximum compensation payable under this Contract is based on the funding from the following sources:
 - i. 100% is allocated under this Contract from Washington State CJTA appropriations.
 - ii. Funding Stipulations:
 1. No Federal Match. The Contractor shall not use funds payable under this Contract as match towards federal funds.
 2. Prohibition of Use of Funds for Lobbying Activities. The Contractor must not use funds payable under this Contractor for lobbying activities of any nature. The Contractor certifies that no state or federal funds payable under this Contract shall be paid to any person or organization to influence, or attempt to influence, either directly or indirectly, an officer or employee of an state or federal agency or an officer or member of any state or federal legislative body or committee, regarding the award, amendment, modification, extension, or renewal of a state or federal contract or grant.
 - c. The Contractor shall budget funds awarded in such a manner to ensure availability of services, outlined in Attachment A. Statement of Work, throughout the entire term of this Contract subject to available funds.
 - d. No less than \$14,000 of budget can be utilized to serve drug court clients.
 - e. No more than \$6,000 of budget can be utilized to provide services in the Jail.
 - f. Period of Performance Service Costs.
The Contractor shall ensure that service costs incurred are within the period of performance of this Contract.
 - g. Transportation
The County will reimburse based on actual expense and may not exceed 10% of budget.
2. Billing and Payment for the Statement of Work
 - a. Invoice System
 - i. The Contractor shall submit invoices using the County's form, or such other form as designated by the County.
 - ii. Invoices must describe and document to the County's satisfaction a description of the work performed, the progress of the project, and fees. If expenses are invoices, invoices must provide a detailed breakdown of each type. All invoices will be reviewed and must be approved by the County Project Manager or his/her designee prior to payment.
 - iii. The County will return incorrect or incomplete invoices to the Contractor for correction and reissue. The Contract Number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.
 - iv. Upon expiration of the Contract, any claims for payment for costs due and payable under this Contract that are incurred prior to the expiration date must be submitted by the Contractor to the County within thirty (30) calendar days after the Contract expiration date. The County is under no obligation to pay any claims that are submitted thirty-one (31) or more calendar days after the Contract expiration date ("Belated Claims"). The County will pay Belated Claims at its sole discretion, and any such potential payment is contingent upon the availability of funds.
 - b. County Obligation for Payment
 - i. The County agrees to make payment, as approved by the Auditor of Cowlitz County, with County warrants on a calendar day specified by the County, contingent on the availability of funds, following receipt of the Contractor's complete and accurate request for payment.

- ii. The County shall not be obligated to reimburse the Contractor for any services or activities, performed prior to the effective date of this Contract.
 - 1. Billing for Allowable Costs and Documented Costs
 - The Contractor shall ensure all expenditures for services and activities under this Contract are:
 - a. Expended for allowable costs, which are in accordance with the Fiscal/Program Requirements.
 - b. All documentation including reports must be submitted with the billing documents.
 - iii. The County will not process any payments received after the 10th business day following the end of this contract.
 - iv. Any funds not utilized at the end of the contract period will be reallocated at the discretion of the County.
- c. Duplication
 - The Contractor assures that work performed and invoiced does not duplicate work to be charged to the County and State of Washington under any other Contract or agreement with the Contractor.
- d. Recovery of Costs Claimed in Error:
 - If the Contractor claims and the County reimburses for expenditures under this Contract which the County later finds were one (1) claimed in error or two (2) not allowable costs under the terms of the Contract, the County shall recover those costs and the Contractor shall fully cooperate with the recovery.
- 3. Advance Payment and Billing Limitations.
 - a. Advance Payment
 - The County shall not make any payments in advance or in anticipation of the delivery of services to be provided pursuant to this Contract.
 - b. Authorized Services
 - The County shall pay the Contractor only for authorized services provided in accordance with this Contract. If this Contract is terminated for any reason, the County shall pay only for services authorized and provided through the date of termination.

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, except as provided for herein.
2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.
3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm or entity without the express and prior written approval of the County Project Manager.
4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Cowlitz County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Cowlitz County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Cowlitz County for any payments made or required to be made by Cowlitz County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits which Cowlitz County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.
6. Regulations and Requirements. This Agreement shall be subject to all federal, state and local laws, rules, and regulations.
7. Right to Review. This contractor is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for six (6) years after contract termination, and shall make them available for such review, within Cowlitz County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.
9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Public Convenience. The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.
11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon thirty (30) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.
12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:
 - a. The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.
 - b. The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.
 - c. If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.
13. Defense and Indemnity Agreement. To the fullest extent permitted by law and except to the extent caused by the sole negligence of the County, the Contractor shall indemnify, defend and hold the County and its appointed and elected officers, agents and employees, and volunteers, harmless from and against any and all claims for any injuries, death or damage to persons or property (including any loss of use resulting therefrom), directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement. Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees. Contractor expressly agrees to indemnify, defend and hold harmless the County from any claims arising out of or incident to either Contractor's or its Subcontractor's performance or failure to perform this Agreement.

It is further agreed by and between the parties that in no event shall any County appointed or elected officer, agent, employee, or volunteer, when executing their official duties in good faith, be in any way personally liable or responsible for any agreement or performance contained herein, whether express or implied, nor for any statement or representation made herein or in any connect with this Agreement. The foregoing indemnification obligations of the Contractor are a

material inducement to County to enter into this Agreement, are reflected in the Contractor's compensation, and have been mutually negotiated by the parties.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.
15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Cowlitz. This Agreement shall be governed by the law of the State of Washington.
16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than ten (10) days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this Clause.
17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available bylaw.
18. Contractor Commitments, Warranties and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.
19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:
 - a. That Contractor shall be notified promptly in writing by County of any notice of such claim.
 - b. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.
20. Disputes:

- a. General. Differences between the Contractor and the County, arising under and by virtue of the contract documents 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. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive thirty (30) days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Project Manager a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Project Manager for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Cowlitz County within fifteen (15) days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

- b. Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
- c. Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.
21. The Contractor and the County understand and agree that this Agreement is a subcontract of the *Professional Services Contract for CJTA Funded Treatment Recovery Support Services* between Washington State Health_Care Authority (HCA) and Cowlitz County (the "**HCA Contract**"), as Amended by the *Client Services Contract CJTA Funded Treatment and Recovery Support Services AMENDMENT* dated / /2020 (the "Amendment"). A true and correct executed copy of the HCA Contract and the Amendment is attached as **Exhibit A**. Under Section 4.31 of the HCA Contract (renumbered as Section 4.29 in the Amendment), it provides that all work product (as defined in the HCA Contract) will be owned by HCA. The Contractor and the County agree that all work product created under this Agreement will be owned by HCA consistent with Section 4.31 of the HCA Contract (renumbered as Section 4.29 in the Amendment).
22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manger's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.
23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager, For purposes of this Agreement, the County Project Manager is:
- Name: Gena James
 Title: Human Services Manager
 Department: Health & Human Services

Address: 1952 9th Ave
Longview, WA 98632
Telephone: (360) 414-5599
E-mail: HHSContracts@co.cowlitz.wa.us
Fax: (360) 425-7531

- In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.
24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.
 25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontractors entered into, County is named as an express third-party beneficiary of such contracts with full rights as such.
 26. Third Party Beneficiaries. This agreement is intended for the benefit of the County and Contractor and not for the benefit of any third parties.
 27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.
 28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.
 29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.
 30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.
 31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
 - a. Applicable federal, state and local statutes, ordinances and regulations;
 - b. Scope of Work (Attachment A) and Compensation (Attachment B);
 - c. Special Terms and Conditions (Attachment D); and
 - d. General Conditions (Attachment C).
 - e. Any other material incorporated herein by reference.
 32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.
 33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.
 34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.
 35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 30-35 of these General Conditions shall survive any termination, expiration or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.
 36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

SPECIAL TERMS AND CONDITIONS

1. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

<input checked="" type="checkbox"/> COMPREHENSIVE GENERAL LIABILITY:		
Bodily injury, including death.	\$1,000,000	Per occurrence
Property damage	\$1,000,000	Per occurrence
	\$2,000,000	Aggregate
<input checked="" type="checkbox"/> ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail).		
	\$1,000,000	Per occurrence
	\$2,000,000	Aggregate
<input checked="" type="checkbox"/> WORKERS COMPENSATION:		Statutory amount
		Waiver of Title 51 Rights
<input checked="" type="checkbox"/> AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles		
Bodily injury, liability, including death and property damage liability.	\$1,000,000	Combined

All Contractor's and Contractor's subcontractors' insurance policies and additional names insured endorsements shall provide primary insurance coverage and be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and not contributory to such insurance policies. All Contractor's and Contractor's subcontractors' liability insurance policies must be endorsed to show this primary coverage.

Upon request, the Contractor shall provide a full and complete and certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Agreement. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. Any deductibles and/or self-insured retentions exceeding \$10,000 or any stop-loss provisions, the County shall have the right to request and review the Contractor's most recent annual financial reports and audited financial statements as a condition of approval.

Contractor hereby agrees to a waive subrogation with respect to each insurance policy maintained under this Agreement. When required any 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.

The County, its departments, elected and appointed officials, employees, agents and volunteers shall be names as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance maintained by the Contractor and subcontractor, and all coverage shall be primary and non-contributory. A state or notion of additional insured status on a Certificate of Insurance shall not satisfy these

requirements. [This endorsement shall not be required if the Contractor is a governmental entity and is insured through a governmental entity risk pool authorized by the State of Washington.]

The Contractor shall, for each required insurance policy, provide a Certificate of Insurance, with endorsements attached, evidencing all required coverages, limits, deductibles, self-insured retentions and endorsements and which is conditioned upon the County receiving thirty (30) days prior written notice of reduction in coverages, cancellation or non-renewal. Each Certificate of Insurance and all insurance notices shall be provided to: ATTN: County Project Manager, Cowlitz County Health & Human Services, 1952 9th Avenue, Longview, WA 98632. This Agreement shall be *void ab initio* if the proof of coverage is not timely supplied.

The insurance maintained under this Agreement shall not in any manner limit or qualify the liabilities or obligations of the Contractor under this Agreement. All insurance policy deductibles and self-insured retentions for policies maintained under this Agreement shall be paid by the Contractor.

Compensation and/or payments due to the Contractor under this Agreement are expressly conditioned upon the Contractor's strict compliance with all insurance requirements. Payment to the Contractor shall be suspended in the event of non-compliance. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor. This Agreement shall be *void ab initio* if the proof of coverage is not timely supplied.

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

2. Definitions.

- a. "Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.
- b. "Breach" means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.
- c. "CFR" means the Code of Federal Regulations. All references in this Contract to CFR chapters or sections include any successor, amended, or replacement regulation. The CFR may be accessed at <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.
- d. "Confidential Information" means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or other state or federal regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, (see also Protected Health Information); finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.
- e. "Data" means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.
- f. "Health Care Authority" or "HCA" means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.
- g. "Proprietary Information" means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.
- h. "Protected Health Information" or "PHI" means individually identifiable information that relates to the provision of health care to an individual; the past, present or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually

identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual, and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

- i. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: <http://apps.leg.wa.gov/rcw/>.
 - j. "USC" means the United States Code. All references in this Contract to USC chapters or sections will include any successor, amended, or replacement statute. The USC may be accessed at <http://uscode.house.gov/>
 - k. "WAC" means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulations. Pertinent WACs may be accessed at: <http://app.leg.wa.gov/wac/>.
3. Performance Expectations. Expected performance under this Contract includes, but is not limited to, the following:
- a. Knowledge of applicable state and federal laws and regulations pertaining to subject of contract;
 - b. Use of professional judgment;
 - c. Collaboration with the County staff in Contractor's conduct of the services;
 - d. Conformance with the County direction regarding the delivery of services;
 - e. Timely, accurate and informed communications;
 - f. Regular completion and updating of project plans, reports, document and communications; and
 - g. Provision of high quality services.

The County and/or HCA will review and evaluate the performance of the Contractor in accordance with Contract and these performance expectations and may withhold allocation of funding if expectations are not met or Contractor's performance is unsatisfactory.

4. Access to Data

In compliance with RCW 39.26.180(2) and federal rules, the Contractor must provide access to any data generated under this contract to the County, HCA, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

5. Confidential Information Protection

- a. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to comply with the requirements of Attachment F. Data Use, Security, and Confidentiality, and Attachment E, Confidential Information Security, attached hereto and incorporated herein.
 - b. The obligations set forth in this Section will survive completion, cancellation, expiration, or termination of this Contract.
6. Contractor acknowledges that HCA and/or the County is subject to chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, HCA will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, HCA will notify the County and or/the Contractor of the request and of the date that such records will be released to the requestor unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, HCA and/or the County will release the requested information on the date specified.
7. Debarment

By signing this Contract, Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Washington State or Federal department or agency from participating in transactions (debarred). Contractor must immediately notify the County if, during the term of this Contract, Contractor becomes debarred. The County may immediately terminate this Contract by providing Contractor written notice, if Contractor becomes debarred during the term hereof.

8. Pay Equity

- a. Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 213), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.
- b. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.
- c. Bona fide job-related factor(s) may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.
- d. A "bona fide regional difference in compensation level" must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.
- e. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within fifteen (15) days of the County's request for such evidence, the County may suspend or terminate this Contract.

9. Publicity

- a. The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services by HCA and/or the County and must not be so construed by Contractor in any advertising or other publicity materials.
- b. Contractor agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA and/or the County prior to such use.

COUNTY RETAINS THIS FORM

Individual contractors and service providers must complete and sign

10. WA Department of Retirement Systems: Independent Contractor Verification and State Retirement Status Reporting Form [WAC 415-02-110; DRS Email 13-011; DRS Email 09-001]

SECTION 1: INDIVIDUAL CONTRACTOR COMPLETES THIS SECTION AND SIGNS:

- Did you retire from one of the State of Washington Retirement Systems? YES NO
- Did you retire before age 65 using the 2008 early retirement factors (ERF)? YES NO
- Will you be receiving direct compensation for your services? YES NO
- Will you be receiving indirect compensation for your services? YES NO

CONTRACTOR (Full, individual name of contractor): _____

Signature: _____ Social Security No.: _____ Date: _____

SECTION 2: COUNTY COMPLETES THIS SECTION AND RETAINS FOR AUDIT PURPOSES:

[Use Member Reporting Verification (MRV) to verify the past retirement membership]

- 1. Contractor **has been** a member of a Washington State Retirement System YES NO
If **YES**, what system and plan?
 - Teachers' Retirement System (TRS) Plan1 Plan 2 Plan 3
 - School Employees' Retirement System (SERS) Plan 2 Plan 3
 - Public Employees' Retirement System (PERS) Plan 1 Plan 2 Plan 3
 - Public Safety Employees' Retirement System (PSERS) Plan 2
 - Law Enforcement Officers' & Fire Fighters' Retirement System (LEOFF)
 - Plan 1 Plan 2
 - Washington State Patrol Retirement System (WSPRS) Plan 1 Plan 2
 - Judicial Retirement System (JRS)
- 2. Is the contractor a retiree of a Washington State Retirement System? Yes No
- 3. Did the contractor retire before age 65 using the 2008 ERF? Yes No

I have verified the information above using MRV or by contacting DRS, and I have evaluated the individual Contractor, Independent Contractor or Service Provider under WAC 415-02-110 and/or DRS Form-MS 344 (R 5/09), and the Internal Revenue Service rules governing independent contractor status.

COUNTY OFFICIAL/DEPARTMENT REPRESENTATIVE: _____

Signature: _____ Date: _____

COUNTY RETAINS THIS FORM

CONFIDENTIAL INFORMATION SECURITY REQUIREMENTS

1. Definitions

In addition to the definitions set out in this Contract for CJTA Funded Treatment and Recovery Support Services, the definitions below apply to this Attachment.

- a. "Hardened Password" means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
 - i. Passwords for external authentication must be a minimum of 10 characters long.
 - ii. Passwords for internal authentication must be a minimum of 8 characters long.
 - iii. Passwords used for system service or service accounts must be a minimum of 20 characters long.
- b. "Portable/Removable Media" means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).
- c. "Portable/Removable Devices" means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC's, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.
- d. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
- e. "Transmitting" means the transferring of data electronically, such as via email, SFTP, webservices, AWS Snowball, etc.
- f. "Trusted System(s)" means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
- g. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism, authenticates a user to an information system.

2. Confidential Information Transmitting

- a. When transmitting HCA's Confidential Information electronically, including via email, the Data must be encrypted using NIST 800-services approved algorithms (<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.
- b. When transmitting HCA's Confidential Information via paper documents, the Receiving Party must use a Trusted System.

3. Protection of Confidential Information

The Contractor agrees to store Confidential Information as described:

- a. Data at Rest:
 - i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

- ii. Data stored on Portable/Removable Media or Devices:
 1. Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
 2. HCA's data must not be stored by the Receiving Party on Portable Devices or Media unless specifically authorized within the Contract. If so authorized, the Receiving Party must protect the Data by:
 - a. Encrypting with NIST-800 services approved algorithms. Encryption keys will be stored and protected independently of the data;
 - b. Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 - c. Keeping devices in locked storage when not in use;
 - d. Using check-in/check-out procedures when devices are shared;
 - e. Maintain an inventory of devices; and
 - f. Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.
 - b. Paper documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.
4. Confidential Information Segregation

HCA Confidential Information received under this Contract must be segregated or otherwise distinguishable from non-HCA data. This is to ensure that when no longer needed by the Contractor, all HCA Confidential Information can be identified for return or destruction. It also aids in determining whether HCA Confidential Information has or may have been compromised in the event of a security Breach.

 - a. The HCA Confidential Information must be kept in one of the following ways:
 - i. On media (e.g. hard disk, optical disc, tape, etc.) which will contain only HCA data; or
 - ii. In a logical container on electronic media, such as a partition or folder dedicated to HCA's Data; or
 - iii. In a database that will contain only HCA Data; or
 - iv. Within a database and will be distinguishable from non-HCA Data by value of a specific field or fields within database records; or
 - v. When stored as physical paper documents, physically segregated from non-HCA Data in a drawer, folder, or other container.
 - b. When it is not feasible or practical to segregate HCA Confidential Information from non-HCA data, then both the HCA Confidential Information and the non-HCA data with which it is commingled must be protected as described in this Attachment.
5. Confidential Information Shared with Subcontractors.

If HCA Confidential Information provided under this Contract is to be shared with a Subcontractor, the contract with the Subcontractor must include all of the Confidential Information Security Requirements.
6. Confidential Information Disposition

When the Confidential Information is no longer needed, except as noted below, the Confidential Information must be returned to HCA or destroyed. Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs/html>).

 - a. For HCA's Confidential Information stored on network disks, deleting unneeded Confidential Information is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section 3, above. Destruction of the Confidential Information as outlined in this section of this Attachment may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

DATA USE, SECURITY, AND CONFIDENTIALITY

1. Definitions

In addition to the definitions set out in this Contract for CJTA Funded Treatment and Recovery Support Services, the definitions below apply to this Attachment.

- a. "Authorized User" means an individual or individuals with an authorized business need to access HCA's Confidential Information under this Contract.
- b. "Client" means an individual who is eligible for or receiving Medicaid services.
- c. "Data" means the information that is disclosed or exchanged as described by this Contract. For purposes of this Contract, Data means the same as "Confidential Information."
- d. "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
- 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, address, telephone numbers, social security numbers, driver's license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.
- f. "ProviderOne" means the Medicaid Management Information System (MMIS), which is the State's Medicaid payment system managed by HCA.
- g. "Regulation" means any federal, state, or local regulation, rule or ordinance.
- h. "Use" includes the sharing, employment, application, utilization, examination, or analysis of Data.

2. Description of Data

- a. Contractor will collect the Data necessary for reporting. The data will be submitted directly to the County using only the secured upload system provided by the County.

3. Data Classification

The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, Data Security, of Securing IT Assets Standards No. 141.10 in the State Technology Manual at <https://ocio.wa.gov/policy/securing-information-technology-assests>. Section 4 is hereby incorporated by reference.)

The Data that is the subject of this Contract may be in any of the Categories indicated below:

- Category 1 – Public Information
Public information is information that can be or currently is released to the public. It does not protection from unauthorized disclosure, but does need integrity and availability protection controls.
- Category 2 – Sensitive Information
Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.
- Category 3 – Confidential Information
Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:
- Personal Information about individuals, regardless of how that information is obtained;
 - Information concerning employee personnel records;
 - Information regarding IT infrastructure and security of computer and telecommunications systems;
- Category 4 – Confidential Information Requiring Special Handling.
Category 4 Data is information that is specifically protected from disclosure and for which:
- Especially strict handling requirements are dictated, such as by statues, regulations, or agreements;
 - Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

4. Constraints on Use of Data
 - a. The Data being shared/accessed is owned and belongs to HCA.
 - b. This Contract does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Contract only to carry out the purpose of this Contract. Any analyses, use, or reporting that is not within the Purpose of this Contract is not permitted without HCA's and the County's written consent.
 - c. Data collected and shared under this Contract includes data protected by 42 C.F.R. Part 2. In accordance with 42 C.F.R. § 2.32, this Data has been disclosed from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit Receiving Party from making any further disclosure of the Data that identifies a patient as having or having substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (42 C.F.R. § 2.31). The federal rules restrict any use of the SUD Data to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at 42 C.F.R. § 2.12(c)(5) and §2.65.
 - d. Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.
5. Security of Data
 - a. Data Protection

The Contractor must protect and maintain all Confidential Information gained by reason of this Contract, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, reasonable security measures, which include restricting access to the Confidential Information by:

 - i. Allowing access only to staff that have an authorized business requirement to view the Confidential Information; and
 - ii. Physically securing any computer, documents, or other media containing the Confidential Information.
 - b. Data Security Standards

Contractor must comply with the Data Security Requirements set out in Attachment E, *Confidential Information Security Requirements*, except as required to be maintained for compliance or accounting purposes.
 - c. Data Disposition

For the purposes of this section "fiscal year" is from July 1 to June 30.

Upon request by HCA or the County, at the end of the Contract term, when no longer needed, or 6 years after the end of the fiscal year in which the Data is received, Confidential Information/Data must be returned to HCA, the County or disposed of as set out in Attachment E, Confidential Information Security Requirements, except as required to be maintained for compliance or accounting purposes.

6. Data Confidentiality and Non-Disclosure
 - a. Data Confidentiality

The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with the purpose of this Contract, except:

 - As provided by law; or
 - With the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.
 - b. Non-Disclosure of Data

The Contractor must ensure that all employees who will have access to the Data described in this Contract (including both employees who will use the Data and IT support staff) are instructed and made aware of the restrictions and protection requirements of this Contract before gaining access to the Data identified herein. The Contractor will also instruct and

make any new employee aware of the use restrictions and protection requirements of this Contract before they gain access to the Data.

The Contractor will ensure that each employee who will access the Data signs the *User Agreement on Non-Disclosure of Confidential Information*, Exhibit B hereto. The Contractor will retain the signed copy of the *User Agreement on Non-Disclosure of Confidential Information* in each employee's personnel file for a minimum of six years from the date the employee's access of the Data ends. The documentation must be available to the County upon request.

- c. Penalties for Unauthorized Disclosure of Data
State laws (including RCW 74.04.060 and RCW 70.02.020) and federal regulations (including HIPAA Privacy and Security Rules, 45 CFR Part 160 and Part 164; Confidentiality of Alcohol and Drug Abuse Patient Records, 42CFR, Part 2; and Safeguarding Information on Applicants and Beneficiaries, 42 CFR Part 431, Subpart F) prohibit unauthorized access, use, or disclosure of Confidential Information. The Contractor must comply with all applicable federal laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.

The Contractor accepts full responsibility and liability for any noncompliance by itself and its employees with these laws and any violations of the Contract.

7. Data Breach Notification

- a. The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov and the County Program Manager within 2 business days of discovery. If the Contractor does not have full details, it will report what information it has, and provide full details within 15 business days of discovery. To the extent possible, these reports must include the following:
- i. The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
 - ii. The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
 - iii. A description of the types of PHI involved;
 - iv. The investigative and remedial actions the Contractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
 - v. Any details necessary for a determination of the potential harm to individuals whose PHI is believed to have been used or disclosed and the steps those individuals should take to protect themselves; and
 - vi. Any other information HCA or the County reasonably requests.
- b. The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D, RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.
- c. If notification of the Breach or possible Breach must, in judgement of HCA or the County, be made under the HIPAA Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010; or other law or rule, then:
- i. HCA or the County may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services (DHS) Secretary, and to the media, or direct Contractor to make them or any of them.
 - ii. In any case, Contractor will pay reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA or the County reasonably considers appropriate to protect HCA clients, such as paying for their regular credit watches in some cases.
 - iii. Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.
- d. Contractor is responsible for all costs incurred in connection with a security incident, privacy Breach, or potential compromise of Data, including:

- i. Computer forensics assistance to assess the impact of a Data Breach, determine root cause, and help determine whether and the extend to which notification must be provide to comply with Breach notification laws;
 - ii. Notification and call center services for individuals affected by a security incident, or privacy Breach;
 - iii. Breach resolution and mitigation services for individuals affected by a security incident or privacy Breach, including fraud prevention, credit monitoring, and identify theft assistance; and
 - iv. Regulatory defense, fines, and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).
 - e. Any breach of this clause may result in termination of the Contractor and the demand for return or disposition, as described above in Section 5, of all Confidential Information.
 - f. Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any Breach or possible preach at any time.
8. Inspection
HCA and/or the County reserves the right to monitor, audit, or investigate compliance with this Contract in regards to the Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the term of this Contract and for six (6) years following termination or expiration of this Contract. HCA and/or the County will have access to Contractor's records and place of business for this purpose. All HCA and/or County representatives conducting onsite audits of the Contractor agree to keep any patient-identifiable information which may be reviewed during the course of any site visit or audit.
9. Indemnification for Unauthorized Use or Release
The Contractor must indemnify and hold HCA, the County and their employees harmless for any damages related to the Contractor's unauthorized use or release of Personal Information or PHI of Enrollees.