



**KITSAP COUNTY**  
Request for Proposal 2024-022

**INSTRUCTIONS**

Purchasing Department  
619 Division St., MS-7  
Port Orchard, WA 98366  
Phone: (360) 337-4788  
Email: [Purchasing@co.kitsap.wa.us](mailto:Purchasing@co.kitsap.wa.us)

REQUEST FOR OFFER TITLE: Correctional Health Care Services

**MATERIALS AND/OR SERVICE REQUESTED:** Kitsap County (“County”) is soliciting qualified Offerors who are interested and able to provide and coordinate comprehensive Correctional Health Care Services and associated system of care for inmates in the Kitsap County Jail (“Jail”) as provided in this solicitation.

**CALENDAR OF EVENTS**

Below are the important dates and times by which the actions must be completed. Dates and times are subject to change. If the County changes any of date or time, the change will be made by addendum.

EVENT	COMPLETION DATE, TIME, AND LOCATION
Issuance of Request for Proposal	Friday, May 3, 2024
Mandatory Site Visit	Tuesday, June 4, 2024, at 9:00 am
Written Questions Due	Friday, June 7, 2024, by 3:00 pm
Addendum Issued	Friday, June 12, 2024, by 3:00 pm
Proposal Due Date	Friday, June 21, 2024, by 3:00 pm
Start Date	January 1, 2025, at 12:01 am

PURCHASING PROGRAM SUPERVISOR: GLEN MCNEIL

**Mailing Address** for USPS delivery:

Glen McNeil, Purchasing Program Supervisor  
Kitsap County Purchasing Office  
614 Division Street, MS-7  
Port Orchard, WA 98366

PHONE: (360) 337-4789

EMAIL: [Purchasing@kitsap.gov](mailto:Purchasing@kitsap.gov)

[www.kitsapgov.com/das/pages/online-bids.aspx](http://www.kitsapgov.com/das/pages/online-bids.aspx)

**Physical Address** for courier or hand delivery:

Glen McNeil, Purchasing Program Supervisor  
Kitsap County Administration Building  
Purchasing Office – Fourth Floor  
619 Division Street  
Port Orchard, WA 98366

All communications concerning this solicitation must be directed to Kitsap County’s Purchasing Program Supervisor identified above, via email only. Questions to, or communications with, other Kitsap County staff may disqualify offerors from the evaluation process.

**OFFERORS ARE ENCOURAGED TO READ THE ENTIRE SOLICITATION.**



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1. **PRE-PROPOSAL (MANDATORY) SITE VISIT.** A pre-proposal site visit will be held on the date and time identified on the face sheet from the Kitsap County Jail Administrative Office located at Kitsap County Jail Reception, 614 Division Street, Room , Port Orchard, Washington. The site visit is a guided tour to familiarize Offerors with the environment in which Services will be provided. Each Offeror may send a maximum of two staff to attend the tour. Offerors shall email the full names of attendees to Chief Penelope Sapp at [psapp@kitsap.gov](mailto:psapp@kitsap.gov) no later than May 24, 2024. Any requests for reasonable accommodation should be directed to Chief Sapp as early as possible to allow time to make appropriate arrangements.

Please arrive 15 minutes prior to the start of the tour and ask for Chief Sapp. Attendees should bring photo identification and may be subject to a search prior to entry into the Jail. No cell phones, briefcases, handbags, recording devices or photographic equipment will be allowed in the Jail. Attendees may bring a clipboard or note pad to take notes.

2. **DUE DATE AND TIME.** Proposals must be received by the Purchasing Program Supervisor at the specified location by the due date and time. Proposals, modifications, and requests to withdraw a Proposal received after the due date and time will be rejected.
3. **OFFER AND ACKNOWLEDGMENT.** Attachment A (Offer and Acknowledgment) shall be returned with the Proposal with an original signature by a person authorized to sign the offer. Unsigned Proposals may be rejected by the County as incomplete. Pricing documents and other documents which require information must be completed in ink, typewritten or computer printed. No Proposals will be accepted if pencil is used. Erasures, interlineations, or other modifications in the Proposal shall be initialed in original ink by the authorized person.
4. **QUESTIONS, ORAL COMMUNICATIONS.** Questions concerning the solicitation must be submitted via email to the Purchasing Program Supervisor. Direct communicate with other county staff regarding the solicitation without prior authorization from the Purchasing Program Supervisor is prohibited. Questions will be accepted up to the date and time identified on the solicitation face sheet. All correspondence related to the solicitation should refer to the solicitation number, page, and section. Offerors are to obtain written clarification from the Purchasing Program Supervisor regarding any inadequacy, omission, or conflict prior to submitting a Proposal. Failure to obtain clarification will not relieve offeror of any responsibility under the solicitation or any subsequent contract. Offerors may only rely on written answers issued by the Purchasing Program Supervisor.
5. **ADDENDA, ATTACHMENTS.** County will issue a written addendum when clarifying or modifying the solicitation. Substantive questions and answers are provided in addendum on the County website at <https://www.kitsapgov.com/das/Pages/Online-Bids.aspx>. Offeror is responsible for obtaining copies of the addenda and acknowledging receipt of all addenda on Attachment A (Offer and Acknowledgment). Offeror shall complete and submit all attachments with the Proposal. Proposals that do not comply may be rejected as nonresponsive.
6. **EXAMINATION OF SOLICITATION AND SITE.** By submitting a Proposal, Offeror certifies compliance with all federal, state, and local laws, rules, and regulations may affect the cost or



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performance of the goods and services have been considered, the solicitation has been read and all terms, conditions, and specifications understood, and Offeror has full knowledge of the nature, scope, and extent of how local conditions may affect the goods and services to be provided.

7. LIABILITY FOR ERRORS. County does not guarantee or warrant the information in the solicitation is accurate nor is it necessarily comprehensive or exhaustive. Nothing in the solicitation is intended to relieve the offeror from forming their own opinions and conclusions with respect to the matters addressed in the solicitation.
8. PREPARATION COSTS, TAXES. County is not liable for any costs incurred by the offeror in preparing, evaluating, submitting, developing, demonstrating, presenting, negotiating, or providing a response and/or samples, for this solicitation. All such activities are done at offerors sole expense. Proposals should be prepared simply and economically, providing adequate information in a straightforward and concise manner. Proposals shall be submitted on the forms provided in the solicitation and include all costs as described and indicated by the specifications. County is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate line item. The total cost shall include all freight, handling, delivery, surcharges, and other incidental charges may be required to provide the goods and services. Additional charges such as fuel surcharges will not be accepted by the County. If the delivery combines items from more than one purchase order, separate packing slips are required.
9. ACCEPTABLE FORMATS, NUMBER OF COPIES. Electronic files shall be submitted in a format acceptable to the County. Acceptable formats include .DOC and .DOCX (Microsoft Word), XLS and XLSX (Microsoft Excel), PPT and PPTX (Microsoft PowerPoint), and .PDF (Adobe Acrobat). Requests to submit in another format must be approved by the Purchasing Program Supervisor. Proposals shall be submitted with one (1) original, (1) electronic format, and three (3) hard copies. Faxed and emailed Proposals will not be considered.
10. SUBMISSION. Proposals shall be submitted to the Purchasing Program Supervisor at the location specified on the solicitation face sheet in a sealed envelope/package provided by Offeror and shall include offeror's name and address, solicitation name and number on the outside of the envelope or package. Offeror is responsible for the timely delivery of submitted Proposals, regardless of the delivery method. Proposals received after the offer due date and time will not be opened or considered. The timeliness of submissions is determined by the County.
11. OFFER ACCEPTANCE PERIOD. Proposals must remain open and valid, and may not be redrawn or amended, for at least **one hundred twenty (120) days** following the opening date and time. County may request an extension of the offer acceptance period.
12. COUNTY'S RIGHT TO WITHDRAW AND AMEND SOLICITATION. County in its sole discretion retains the absolute right without penalty to withdraw and/or amend all or any portion of this solicitation at any time, for any reason or no reason, up to contract execution. If there is any conflict between solicitation documents, the document issued last in time shall control.



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13. REJECTION OF PROPOSALS OR WAIVER OF IRREGULARITIES. Proposals must comply with the terms of this solicitation and all applicable, federal, state, and local laws, codes, and regulations. County in its sole discretion may a) reject any and all Proposals submitted, or portions thereof, b) waive or reject any defects, informalities, or irregularities; c) reissue the solicitation; d) modify the solicitation; e) cancel the solicitation; and/or f) re-advertise and solicit new Proposals on the same scope of work or on a modified scope of work, when it is in the best interests of or advantageous to the County to do so. County reserves the right to reject any conditional offer and any or all exceptions. Proposals may be rejected if they show alterations in form, additions not called for, conditions or unauthorized alterations, or irregularities of any kind.

Offerors may not qualify the offer with limitations nor restrict the rights of the County. If an Offeror does so, the Purchasing Program Supervisor may reject the offer as a non-responsive counteroffer. Certain irregularities in an offer may be waived by the Purchasing Program Supervisor if it: a) does not affect responsiveness, b) is merely a matter of form or format, c) does not change the relative standing of or otherwise prejudice other offerors, d) does not change the meaning or scope of the solicitation, e) is trivial, negligible, or immaterial in nature, f) does not reflect a material change in the work, or g) do not constitute a substantial reservation against a requirement or provision.

14. NON-RESPONSIVE PROPOSALS. County may at any time reject all or part of any offer as nonresponsive for any of the following reasons: a) late or incomplete offer; b) noncompliance with any part of the solicitation; c) inaccurate, misleading, exaggerated, or false information; or d) failure to respond to every solicitation item or to provide all information requested.

15. ACCEPTANCE IS NOT BINDING. Acceptance of an offer does not bind the County until the offer is executed by both parties consistent with all County contractual requirements.

16. OFFEROR WITHDRAWAL OF OFFER. Offerors may modify or withdraw a submitted offer prior to the offer due date and time. A request to modify or withdraw an offer must be in writing, signed by an authorized representative of the offeror, and submitted to the Purchasing Program Supervisor. Faxed withdrawals will NOT be accepted. A withdrawn offer may be resubmitted prior to the offer due date and time. Negligence in preparing an offer confers no right of withdrawal or modification after the offer due date and time.

17. DELAYS. County, at its sole discretion, may delay any or all scheduled due dates indicated on the solicitation face sheet if it is advantageous to the County to do so.

18. SERIAL NUMBERS. Offerors which include equipment shall be for equipment on which the original manufacturer's serial number, if applicable, has not been altered in any way. Throughout the contract term, County reserves the right to reject any altered equipment.

19. BRAND NAMES AND EQUIVALENTS. References to manufacturers, trade names, brand names or catalog numbers in the solicitation are intended to be descriptive, not restrictive, unless otherwise stated and intended to indicate the level of quality, design, or performance desired. Any offer which proposes equal or greater quality, design or performance may be considered. Proposals based on






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equivalent products shall clearly describe the alternate offered and indicate how it differs from the product specified and include complete and sufficient descriptive literature and specifications to enable a full and fair determination as to whether the proposed alternate will be equal to or better than the product named in the solicitation. County has the sole authority to accept or reject any like item and may require offeror to provide additional information and/or samples. If Offeror does not specify otherwise, it is understood the referenced brand will be supplied.

20. **SPECIFICATIONS**. Apparent silence or omission in the specifications of the scope of work as to any detail shall be regarded as meaning only the best commercial practice is to prevail and only material and workmanship of the finest quality are to be used. All interpretations of the specifications shall be made on the basis of this statement.
21. **EXCEPTIONS AND ASSUMPTIONS**. Proposals in strict compliance with the solicitation are desired. Offeror must provide a complete comprehensive listing of all exceptions and assumptions made in the offer using Attachment B (Exceptions and Assumptions Form). If any exception or assumption is not acceptable to the County, it may cause the offer to be rejected. No assumptions shall be included regarding negotiation, terms and conditions, and requirements. The absence of identified exceptions or assumption shall mean Offeror accepts and meets all solicitation requirements in every respect.
22. **DESCRIPTIVE LITERATURE**. Proposals shall include complete manufacturer's descriptive literature regarding the equipment, goods and services proposed to be furnished. Literature shall be sufficient in detail to allow a full and fair evaluation of the Proposal submitted. Failure to include this information may result in the offer being rejected.
23. **TEST MODELS/SAMPLES**. County may request offerors provide a test model of the product(s) offered on a no-charge basis. The performance, characteristics, and components of the model(s) submitted for inspection and testing shall be considered a representative model of the product(s) offered and intended for delivery. Any product tested and found not capable of meeting the requirements of the solicitation specifications will not be considered for a contract award. At the conclusion of the testing, offeror may retrieve the product, if practical. County is not responsible for any damages may occur to any products supplied for testing.
24. **FIRM PRICING**. Prices will be firm for the entire contract period unless the solicitation specifically states otherwise.
25. **NON-EXCLUSIVE CONTRACT**. County retains the discretion to make multiple or partial awards to obtain the same or similar services and products are the subject of this solicitation and/or to order greater or less products or quantities based on County need. Contracts resulting from this solicitation are not exclusive service agreements.
26. **WARRANTY**. Contractor warrants all materials and workmanship delivered under any resulting contract to be free from defects, damage or failure which County may reasonably determine is the responsibility of offeror, for a minimum of 90-days after final acceptance and without cost to the

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County for labor, materials, parts, installation or any other costs except where longer periods of warranty of guarantees are specified.

27. CONFLICT OF INTEREST. Offerors shall disclose in the offer letter if Offeror is an immediate family member of or engaged in any business enterprise with a County employee, elected or appointed official with authority to award the solicitation.
28. LAWS, LICENSES, CERTIFICATIONS. All Solicitations and Proposals are subject to all applicable legal requirements and regulations. Offerors, both corporate and individual, must be fully licensed and certified (in good standing) for the type of work to be performed in Washington state at the time of proposal and during the entire contract period, including extensions.
29. PUBLIC RECORD, CONFIDENTIAL INFORMATION. All Proposals and other records submitted to the County in response to the Solicitation become the property of the County and are subject to the Public Records Act (Act), chapter 42.56 RCW. If an Offeror considers any portion of its offer, electronic or hard copy, to be protected from inspection and copying under Washington law, offeror shall specifically identify each page and item it claims to be exempt from disclosure in the offer letter. If the County receives a request under the Act to inspect or copy the information has been identified by offeror as exempt from disclosure, County’s sole obligation is to make a reasonable effort to notify offeror of the request and the date the exempt information will be released to the requestor unless the offeror obtains a court order to enjoin such disclosure pursuant to RCW 42.56.540. County will release the information unredacted on the date specified, absent receipt of a court order enjoining such disclosure. County has no obligation to claim any exemption from disclosure on behalf of offeror. County will not be liable to offeror for releasing records have been marked by offeror as exempt.
30. DISCUSSIONS. County reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
31. CONTRACT TERMS. Offerors must carefully read and review Attachment G (Professional Services Contract). The final Contract with the County will be substantially similar to it. If an Offeror wishes to make changes to the Contract, the proposed changes must be submitted with the Proposal using the Exceptions and Assumptions Form and must be clear, legible, and conspicuous. Offeror must also provide the rationale for all proposed changes. If no changes are submitted with the proposal, it is understood the terms and conditions of the sample contract have been accepted. County reserves the right to add terms and conditions during contract negotiations.
32. REFERENCE CHECKS. County may conduct reference checks to verify offeror’s past performance. Reference checks indicating poor or failed performance may be cause for rejection. County reserves the right to obtain reference checks, other than those provided by offeror, relevant to the goods and services to be provided.



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33. **PROPOSAL FORMAT AND CONTENTS.** Offerors are to respond to all information requested in this solicitation. Offerors must follow the format set out in this solicitation and provide all information requested. Proposals should be consecutively numbered and organized as identified below and include all appendices, appropriately signed, tabbed, and referenced.

A. **Introduction – Company Profile**

1. Offeror’s full legal name and all other names used by offeror since company formation, including trade names and assumed business names, and corresponding dates of use.
2. Complete description of ownership, age, and scope of offeror’s company.
3. Detailed organizational chart identifying the organizational structure, including parent companies, subsidiaries, affiliates and other related entities and controlling equity holders.
4. If incorporated, identify the state of incorporation.
5. Identify if offeror, under any business name, has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from doing business with another government entity. If yes, provide detailed information regarding such action.
6. Provide name/title of person authorized to execute the Contract on offeror’s behalf.

B. **Experience, References**

1. Identify previous experience, capabilities, and other qualifications to provide the goods and services requested.
2. Provide three (3) references from entities offeror has provided or is providing the same or similar services using Attachment F (Contractor References). References shall be for the same or similar types of goods/services to be performed under the Contract.

C. **Financial Information.** Provide financial statements for the last three (3) years to demonstrate Offeror’s financial ability to provide all the Services. Audited statements are preferable, but a minimum of balance sheet, income statement and cash flow statement should be submitted.

D. **Technical Approach**

1. Describe the procedures and methods will be used to provide all Health Care Services and objectives identified in the RFP.
2. Include a list of all County, KCSO and Contractor’s responsibilities.
3. Provide a project transition schedule by task and include project organization, management, recruiting and retention of qualified professionals, training, and quality control procedures.
4. Provide a complete Staffing Matrix sufficient to provide Staffing 24/7 consistent with the requirements of the RFP.

E. **Key Personnel**

1. Identify and describe the roles and qualifications of all individuals who will be part of the management team and relevant Staff would be providing services to the Jail under the resulting Contract; and
2. Identify and describe the titles, roles, responsibilities and qualifications of any outside personnel, such as subcontractors, Contractor intends to utilize to provide Services; and
3. Provide detailed resumes of all management team members and subcontractors who will





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be directly working on the project; and

- 4. Provide an organizational chart of Staff detailing where all such individuals, by name and title, and how they relate to one-another organizationally and to the County.

F. Services and Cost Proposal

- 1. Complete and return the Scope of Work with any exceptions or deviations.
- 2. Describe any Service enhancements and/cost reductions if awarded the Contract.
- 3. Complete and provide the Attachment C (Cost Proposal).

G. Performance (Active and Inactive Contracts).


- 1. Provide complete list of all closed or pending legal judgments, claims, or lawsuits, against offeror or its Subcontractors including a summary of the complaint, answer, and final disposition, if closed, in the past five (5) years, include caption and cause number.
- 2. Identify if any closed or pending legal judgments, claims, or lawsuits contributed to any contracts being terminated, or were related to any deficiencies, concerns, failures, non-compliance, sanctions, or monetary off-sets during the contract term.

H. Descriptive Literature. Proposals shall include complete manufacturer’s descriptive literature regarding the equipment and goods to be furnished and contain sufficient detail to provide a full and fair evaluation of the equipment and goods to be provided.

34. EVALUATION CRITERIA. A committee of individuals representing the County will perform an evaluation and ranking of the Proposals. County reserves the right to award a contract solely on the written proposal. Evaluation of the Proposals will be based on a competitive selection process, which will not be limited to price alone. The evaluation committee may seek reviews of end users of the services or advice or evaluations of subject matter experts. County reserves the right, in consultation with the evaluation committee, to reject any and all proposals. The evaluation committee will evaluate and numerically score each offer based on the criteria below and weight assigned to each.

1. Company Profile, Experience	[25 points]
2. References, Financial Information	[25 points]
3. Technical Approach, Services	[25 points]
4. Key Personnel	[25 points]
5. Services, Cost Proposal	[25 points]
6. Performance, Descriptive Literature	[25 points]
TOTAL POINTS	150 Points

35. NEGOTIATIONS. Negotiations will be scheduled at the convenience of the County. Should the evaluation process result in a top-ranked proposal, County may limit negotiations to only that offeror and not hold negotiations with any lower-ranking offeror. If negotiations are unsuccessful with the top-ranked offeror, County may then go down the line of remaining offerors, according to rank, and negotiate with the next highest-ranking offeror. This process may continue until successful negotiations are achieved. County reserves the right to terminate negotiations with any Offeror should it be in the County’s best interests. County reserves the right to reject any and all proposals submitted.

	<b>ATTACHMENT A</b> <b>RFP 2024-022</b>	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	<b>OFFER AND ACKNOWLEDGMENT</b>	

All information requested below must be provided. Failure to properly complete, sign and return this Offer and Acknowledgment Form may cause the offer to be rejected.

1. Primary Contact Person Information for Offeror:

Name / Title: \_\_\_\_\_

Legal Name of Offeror: \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_ Alternate No. (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_

2. Offeror/Company Information (Provide complete legal name and address of place of business)

Name of President/CEO: \_\_\_\_\_

Legal Name of Company: \_\_\_\_\_

Trade Name of Company: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Website: \_\_\_\_\_

Type of Entity / Organizational Structure:  Corporation,  Partnership,  Joint Venture,  
 Limited Liability Company,  Non-Profit,  Other: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_

Washington State UBI Number: \_\_\_\_\_

State Industrial Account Identification Number: \_\_\_\_\_

Name and Address of Resident Agent: \_\_\_\_\_

3. Did an outside individual/agency assist with the offer preparation?  Yes  No

If yes, please identify: \_\_\_\_\_

4. Receipt of Addenda. Offeror acknowledges receipt of the following addenda if any.

Addendum No. \_\_\_\_\_, Dated \_\_\_/\_\_\_/\_\_\_, Addendum No. \_\_\_\_\_, Dated \_\_\_/\_\_\_/\_\_\_

Addendum No. \_\_\_\_\_, Dated \_\_\_/\_\_\_/\_\_\_, Addendum No. \_\_\_\_\_, Dated \_\_\_/\_\_\_/\_\_\_

5. Offeror agrees that this offer shall remain valid for not less than **120 days** from the offer due date and may not be withdrawn or modified during that time.

6. Offeror agrees the submission of the Proposal constitutes acceptance of the Solicitation contents and terms and conditions, unless otherwise identified in the Exceptions and Deviations Form.

7. Offeror by submitting this Offer and Acknowledgment Form, certifies the following:

a. Offeror has considered all applicable federal, state, and local laws, ordinances, rules, regulations applicable to the services, and goods to be provided under this solicitation.

b. Offeror has fully read and understand the contents of the solicitation and have full knowledge of the scope, nature, requirements, and specifications and agrees to meet or exceed the same.

c. Offeror will make no claim against the County based upon ignorance of conditions or misunderstanding of the solicitation documents, or the goods and services to be provided.

d. Offeror has submitted this offer without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. Offeror understands collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

e. The undersigned is an authorized representative of the offeror/company identified above; is authorized to submit this offer on behalf of that company and agrees on behalf of the company to furnish all goods and services in accordance with the terms and conditions of the solicitation.

Offeror's Signature (*Authorized Representative*): \_\_\_\_\_

Print Name and Title of Signer: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2024



ATTACHMENT B  
RFP 2024-022

Purchasing Department  
619 Division St., 4<sup>th</sup> Floor  
Port Orchard, WA 98366

EXCEPTIONS AND ASSUMPTIONS FORM

OFFEROR'S NAME: \_\_\_\_\_

The County does not intend to make changes to the terms and conditions of the solicitation, unless necessary to clarify the scope of work and technical requirements. Failure to accept the terms and conditions may result in a proposal being deemed nonresponsive. Offerors shall identify all Exceptions and/or Assumptions taken to any terms, conditions, and specifications of the solicitation and associated documents must be clearly identified on the table below and returned with the proposal. Unallowable or questionable Exceptions and/or Assumptions may cause a proposal to be non-responsive. Exceptions or Assumptions noted elsewhere in the solicitation and not specified on this form will be considered void and may disqualify the offer. All cells below must be completed for each Exception and Assumption.

SPECIFICALLY DESCRIBE ALL EXCEPTIONS AND ASSUMPTIONS *(attach additional pages if needed)*:

**Identify All Exceptions and Deviations** *(check one)*

**No Exceptions Requested:** Offeror is not requesting exceptions to the solicitation and associated documents.

Offeror requests the exceptions and/or assumptions identified below:

No	RFP Section, Page, and Reference	RFP language to which an Exception/Assumption taken	Basis for each Exception and Assumption	Proposed Language	Price/Schedule Impact
1.					
2.					
3.					
4.					
5.					
6.					

7.					
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13.					
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15.					
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18.					
19.					
20.					


\_\_\_\_\_  
Signature of Offeror's Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Offeror's Authorized Representative (print)

\_\_\_\_\_  
Title



	<b>ATTACHMENT C</b> <b>RFP 2024-022</b>	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	<b>COST PROPOSAL</b>	

OFFEROR: Please complete all pages of the Cost Proposal Forms.

Compensation, based on Staffing Matrix provided by Offeror, for services described in the RFP, Scope of Work and Contract documents, based on the average daily population of 400.

1. COMPENSATION TOTAL

<b>Contract Period</b>	<b>Monthly Installment</b>	<b>Annual Compensation</b>	<b>Per Diem Rate</b>
First year (2025)	\$	\$	\$
Second year (2026)	\$	\$	\$
Third year (2027)	\$	\$	\$
Fourth year (2028)	\$	\$	\$
Fifth year (2029)	\$	\$	\$

2. PER DIEM FOR ADDITIONAL INMATES

<b>Contract Period</b>	<b>Per Diem Rate for each additional Inmate above an ADP of 425 or below an ADP of 400.</b>
First year (2025)	\$
Second year (2026)	\$
Third year (2027)	\$
Fourth year (2028)	\$
Fifth year (2029)	\$

3. TOTAL COSTS

Offerors are required to provide a detailed cost breakdown for each year of the intended contract based on an ADP of 400. (Failure to provide the required data may deem the proposer non-responsive). The following cost data is required.

TOTAL LABOR----- \$ \_\_\_\_\_

Breakout all categories of labor, such as in-house (*including a breakout of base salaries, fringe benefits*), consultants and subcontractor

Base salaries \$ \_\_\_\_\_

Fringe benefits \$ \_\_\_\_\_

Consultants \$ \_\_\_\_\_

Subcontractors \$ \_\_\_\_\_

Other \_\_\_\_\_ \$ \_\_\_\_\_

MATERIAL----- \$ \_\_\_\_\_  
(Include all categories of material, supplies, and equipment)

Supplies \$ \_\_\_\_\_

Electronic Records Management System \$ \_\_\_\_\_

Equipment \$ \_\_\_\_\_

Other: \_\_\_\_\_ \$ \_\_\_\_\_

GENERAL & ADMINISTRATIVE ----- \$ \_\_\_\_\_

TOTAL COST----- \$ \_\_\_\_\_

PROFIT----- \$ \_\_\_\_\_

TOTAL PRICE ----- \$ \_\_\_\_\_

SIGNATURE (*Authorized Representative*): \_\_\_\_\_

Print Name and Title of Signer: \_\_\_\_\_

Dated this \_\_\_\_\_ day of June 2024.

	ATTACHMENT D RFP 2024-022	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	SUBCONTRACTOR LIST	

OFFEROR'S NAME: \_\_\_\_\_

OFFERORS: Provide the following information for all proposed subcontractors that may provide goods and/or services on behalf of the offeror under this solicitation. Additional pages may be attached if necessary

Full Legal Name:
Address:
Contact Person:
Telephone No. and Email Address:
Service(s)/items Solicited:


Full Legal Name:
Address:
Contact Person:
Telephone No. and Email Address:
Service(s)/items Solicited:

Full Legal Name:
Address:
Contact Person:
Telephone No. and Email Address:
Service(s)/items Solicited:

Offeror's Signature (*Authorized Representative*): \_\_\_\_\_

Print Name and Title of Signer: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_ 2024

	<b>ATTACHMENT E</b> <b>RFP 2024-022</b>	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	<b>SUBCONTRACTOR REFERENCES</b>	

OFFEROR'S NAME: \_\_\_\_\_

SUBCONTRACTOR'S NAME: \_\_\_\_\_. For each subcontractor, provide three (3) references that can verify the subcontractor's experience and ability to provide the goods and/or services subcontractor may provide on behalf of offeror under this solicitation.

Company Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	
Services Provided:	

Company Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	
Services Provided:	

Company Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	
Services Provided:	

**REFERENCE CHECK RELEASE STATEMENT**

You are authorized to contact the references provided above for purposes of this solicitation.

Offeror's Signature (*Authorized Representative*): \_\_\_\_\_

Print Name and Title of Signer: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_ 2024



ATTACHMENT F  
RFP 2024-022

Purchasing Department  
619 Division St., 4<sup>th</sup> Floor  
Port Orchard, WA 98366

CONTRACTOR REFERENCES

OFFEROR'S NAME: \_\_\_\_\_

OFFERORS: Provide at least three (3) references that can verify the offeror's experience and ability to provide the goods and services identified in the solicitation.

Agency Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	Go Live Date:
Modules/Functionality Installed:	
Other Comments:	

Agency Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	Go Live Date:
Modules/Functionality Installed:	
Other Comments:	

Agency Name:	Contract Period:
Contact Person ( <i>Name and Title</i> ):	
Complete Primary Address:	
Telephone Number:	E-mail Address:
Project Name:	Go Live Date:
Modules/Functionality Installed:	
Other Comments:	

**REFERENCE CHECK RELEASE STATEMENT**

By signing below, Offeror provides authorization to the County to contact the references provided and any other entities to which the Offeror is providing the same or similar service to obtain information about the offeror for purposes of the solicitation.

Offeror's Signature (*Authorized Representative*): \_\_\_\_\_

Print Name and Title of Signer: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_ 2024



	<b>ATTACHMENT G</b> <b>RFP 2024-022</b>	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	<b>PROFESSIONAL SERVICES CONTRACT</b>	

This Professional Services Contract (“Contract”) is made between the Kitsap County Sheriff’s Office, acting through Kitsap County, a Washington state municipal corporation (“County”), and \_\_\_\_\_, a \_\_\_\_\_ corporation, with offices located at \_\_\_\_\_ (“Contractor”). Each individually referred to as a “Party” or collectively as the “Parties”.

**RECITALS**

WHEREAS, the County owns and operates the Kitsap County Sheriff’s Office Corrections Department (“Jail”) located at 614 Division Street, Port Orchard, Washington;

WHEREAS, the objective of the County is to provide for the delivery of quality Health Care Services to all Inmates in the physical custody and control of the County in accordance with applicable law;

WHEREAS, the County has the obligation to provide for the health, safety, and welfare of all Inmates incarcerated at the Jail; and

WHEREAS, the Contractor is in the business of providing health care services and desires to provide such services for the County under the terms and conditions hereof.

**AGREEMENT**

NOW, THEREFORE, in consideration of the following mutual covenants and promises, and the foregoing recitals which are made a part of this Contract by this reference, the Parties agree as follows:

**ARTICLE 1. TERM AND EFFECTIVE DATE**

- 1.1 The Contract will commence at 12:00 A.M. on \_\_\_\_\_, 2025 (Effective Date) and remain in effect for five years, until midnight \_\_\_\_\_, \_\_\_\_\_, unless terminated or extended as provided herein. The Contract may be extended for additional consecutive one (1) year terms at the written agreement of the Parties. In no event will the Contract or any contract amendment become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.
- 1.2 The Contract, and any amendments, will become effective when approved and executed by the duly authorized representatives of Kitsap County and Contractor.

**ARTICLE 2. DEFINITIONS**

- 2.1 The following abbreviations and definitions will be used in this RFP, all associated documents, and the resulting Contract.

- A. Addenda means the revision(s) to the request for proposal documents issued by the County prior to receipt of proposals.
- B. Attachment means any item the Offeror is required to submit as part of its Proposal.
- C. American Correctional Association or ACA means the national organization of correctional officials that promulgates standards related to correctional custody, including performance standards for medical services in prisons and jails.
- D. Chief means the Kitsap County Sheriff's Office Chief of Corrections or his/her designee.
- E. Continuous Quality Improvement Program means a structured approach to quality management implemented to improve healthcare by identifying problems, monitoring, implementing and evaluating corrective actions and studying effectiveness of processes and improvement activities. An essential element of quality improvement is the monitoring of high-risk, high-volume or problem-prone aspects of health care.
- F. Contract means the combination of the request for proposal, instructions, the scope of work, any County clarifications and addenda, the Contractor's proposal as accepted by the County, the professional services contract, and all attachments, amendments and exhibits referenced herein and therein.
- G. Contractor means the person or entity awarded a contract resulting from this request for proposal.
- H. Days means calendar days unless otherwise specified.
- I. Electronic Health Records Management System or EHRMS means a comprehensive all-inclusive electronic health care record to include sections for documenting all Health Care Services provided, including templates and forms.
- J. Health Care Services or Services means the overall comprehensive Health Care Services program to be provided by the Contractor to Inmates in the Jail, which includes without limitation, all medical, mental health, dental, and other ancillary and administrative services, both on and off-site, as more specifically identified in the request for proposal.
- K. Health Care Staff or Staff means qualified Washington licensed health care professionals as well as administrative and support staff (e.g. health record administrators, lab techs, nursing, and medical assistants and clerical workers) utilized by the Contractor to provide services under the Contract, and includes Contractor and its employees, subcontractors, volunteers, interns, agents, and any other person or entity utilized by the Contractor directly or indirectly or through third

parties to perform or provide any Services under the Contract.

- L. Inmate means person detained or confined in the Kitsap County Sheriff's Office Jail.
- M. Licensed means Staff who hold an active and unrestricted license in good standing, in the State of Washington in the relevant professional discipline for the position in which the licensee will be providing services under the Contract.
- N. Mid-Level Provider means a nurse practitioner or physician's assistant.
- O. NCCHC means the National Commission on Correctional Health Care Accreditation Standards for Health Services in Jails for medical and mental health services, now in effect and as amended during the Contract term.
- P. Offeror means the entity responding to this request for proposal.
- Q. Offeror's Staff or Staff means the Contractor and Contractor's employees, subcontractors, volunteers, interns, agents, and any other person or entity utilized by the Contractor directly or indirectly or through third parties to perform or provide any Health Care Services under the Contract.
- R. Sheriff means the Sheriff of the Kitsap County Sheriff's Office or his/her designee.
- S. Standards means the requirement that all Health Care Services provided under the Contract meet or exceed all recognized standards of care for the provision of health care by qualified health care professionals in Washington state, and provided in accordance with all standards and requirements of the U.S. and State Constitutions, federal, state and local laws, Chapter 70.45 RCW, Chapter 2.21 Kitsap County Code, the American Medical Association, American Psychiatric Association, American Psychological Association, and the accreditation standards of the ACA, NCCHC, and WASPC, now in effect and as amended during the Contract term regardless as to whether such standards are specifically referred to by the County.
- T. Subcontract means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or service for the performance of the Contract.
- U. Support Lieutenant means the Kitsap County Sheriff's Office Corrections Department Support Lieutenant or his/her designee.
- V. WASPC means the Washington Association of Sheriffs and Police Chiefs accreditation standards for Jails for medical and mental health services, in effect and as amended during the Contract term.

### ARTICLE 3. SCOPE OF WORK

- 3.1 GENERAL ENGAGEMENT. Contractor shall provide Health Care Services as set forth in the Request for Proposal and Scope of Work. Contractor agrees to meet or exceed all applicable Standards, as defined in the Scope of Work and incorporated in full by this reference, in effect and as amended during the Contract term.
- 3.2 SCOPE OF WORK. Contractor will provide all Health Care Services and related health care and administrative services necessary for provided such Services, including but are not limited to: a program for preliminary intake health screening of inmates upon arrival at the Jail, a comprehensive health assessment examination of each inmate following admission, regularly scheduled care for non-urgent, urgent, and emergency episodic care, care for chronic conditions, withdrawal/detoxification treatment, nursing coverage, regular physician visits on site, infirmary or medical housing unit care, hospitalization, medical specialty services, diagnostic and therapeutic services, mental health services, medical records management, pharmacy services, health education and training services, a quality assurance program, utilization management, administrative support services, Re-entry initiative (Medicaid Transformation Project) and other services as more specifically described in the Contract. Contractor shall provide all Health Care Services as identified in the request for proposal, Contract, and Contractor's Proposal as accepted by the County.
- 3.3 STAFFING MATRIX. Contractor shall provide and maintain the Staff as necessary to provide the Health Care Services to inmates as provided in the Contract, in accordance with Attachment K (Staffing Matrix), as accepted by the County. Contractor will perform a monthly self-audit of its payroll records to ensure compliance with all Staffing obligations required by the Contract.
- 3.4 LICENSURE, CERTIFICATION AND REGISTRATION OF PERSONNEL. Contractor will ensure all Staff provided and made available by Contractor to provide Services under the Contract shall be licensed, certified or registered, as appropriate, in good standing in their respective areas of expertise as required by Washington law and the Contract. Contractor shall ensure all Staff are competent to do the work they do, perform only work within the scope of the individual's respective license, and are appropriately supervised. Contractor shall promptly provide verification of such compliance when requested by the County.
- 3.5 OFFICE SPACE, EQUIPMENT AND UTILITIES. The County will provide to Contractor, beginning on the date of commencement of this Contract, the use of the clinic and office space, supplies, medical equipment, utilities and office equipment in place at the Jail which are the County's property or in the possession of the County, as set forth in the Scope of Work. At the termination of this Contract, Contractor will return to the County possession and control of the clinic and office space, all medical equipment and office equipment, in working order, reasonable wear and tear excepted, which were in place at the Jail prior to the commencement of Health Care Services under this Contract.
- 3.6 REPORTS. Contract shall provide the County with all reports identified in Attachment J (Required Reporting), with the content, format and due date as requested by the County.

- 3.7 HEALTH CARE RECORDS. Contractor will collect, document, maintain and retain a comprehensive, accurate electronic medical record for each inmate who has received Health Care Services as identified in the Scope of Work.
- 3.8 FACILITIES AND MATERIALS INSPECTION. Contractor agrees to permit access to its facilities, subcontractor facilities and Contractor's processes or services, at reasonable times for inspection of the facilities and materials covered by this Contract. The County shall also have the right to test, at its own cost, the materials to be supplied under this Contract. If the County determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the County for testing and inspection.

#### ARTICLE 4. COMPENSATION

- 4.1 COMPENSATION. County will pay the Contractor the annual sum, payable in equal monthly installments as identified in Attachment C (Cost Proposal Form) and accepted by the County. The Compensation will be adjusted annually as provided in Attachment C.
- 4.2 SUBSEQUENT TERMS. After the initial contract term, Contractor may submit an annual request for cost adjustments to the Sheriff on or before March 30 for the following year. Requests shall identify any increase in the Contract pricing and must be supported with financial and other documentation. In no event shall a price increase exceed the percent of change in the all-Urban Consumer Price Index (CPI-U) for professional medical services, for the Seattle- Tacoma-Bremerton area as is specified by the Bureau of Labor Statistics, United States Department of Labor ([www.bls.gov](http://www.bls.gov)) for the prior year. The increase for any subsequent year shall not exceed 4%. The County shall have the right to request and receive additional information, statistics, etc., and to direct the content, form and format of presentation as it deems necessary to validate Contractor's request for an annual cost adjustment. Failure to respond to the County's request within the time frames specified shall nullify Contractor's request.
- 4.3 PRICE REDUCTION. Price reductions may be submitted to the County for consideration at any time during the contract period. The County at its own discretion may accept a price reduction. Price reductions will become effective upon acceptance by the County

#### ARTICLE 5. PAYMENT AND COSTS

- 5.1 INVOICE. Contractor shall utilize the invoice format directed by KCSO to submit one complete and accurate invoice per month for the services and goods received in the prior month. Invoices shall be legible and reflect all appropriate adjustments for credits due the County. Illegible invoices will be returned to Contractor for clarification and the County will shall not be held to established timeframe for payment as set above. County shall have the right to require Contractor to provide additional supporting documentation prior to payment of an invoice. Within 90 days of receipt and acceptance of third-party goods and/or services, Contractor shall submit a complete and accurate invoice for payment from the County. The County shall not be responsible for paying or reimbursing Contractor for any bills submitted after this 90 days' timeframe.
- 5.2 PAYMENT. The County will make reasonable efforts to pay Contractor within 30 days from the date the County receives a complete and correct invoice, unless otherwise provided



herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the Parties.

- 5.3 DISCREPANCY. The County will provide notice to the Contractor of any invoice discrepancy. The Contractor and the County shall resolve the discrepancy by comparison and reconciliation of records. If resolution cannot be achieved, the disputed amount shall not be paid until the Parties have received an agreement resolving the discrepancy. The timeframe for payment for the disputed amount shall be waived until the dispute is resolved.
- 5.4 INSURANCE/W-9 COMPLIANCE. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to Contractor unless otherwise provided herein.
- 5.5 RESTRICTIONS. Contractor will only be entitled to receive payment for Services expressly authorized in the Contract and received during the Contract term and accepted by the County. Contractor acknowledges oral requests, and authorizations, for additional compensation are prohibited and unenforceable. Advance payments are not authorized. The County does not pay, and is not subject to, any late charges, fees, or penalties of any kind.
- 5.6 TAXES. Contractor is solely liable for payment of all tax obligations arising from its performance of this Contract. Contractor and its subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by Contractor. Contractor shall require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. Contractor will collect sales and use taxes imposed on goods or services acquired hereunder as required by law within their contracted rate. Contractor must pay all taxes including, but not limited to: Business and Occupation Tax, taxes based on Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

## ARTICLE 6. TERMINATION

- 6.1 TERMINATION. The County may terminate the Contract in whole or in part whenever the County determines, in its sole discretion, such termination is in the best interests of the County. The County may terminate the Contract upon giving Contractor 60-days' written notice. In the event the Contract should terminate on a date other than the end of a calendar month, compensation to Contractor will be pro-rated accordingly for the shortened month.
- A. Termination for Convenience. The County reserves the right to terminate the Contract, in whole or in part, at any time when it is in the best interest of the County, without penalty or recourse.

- B. Funding Issues. If funding for the underlying project or matter is withdrawn, reduced or limited in any way after the Contract is signed or becomes effective, the County may summarily terminate the Contract notwithstanding any other termination provision in the Contract. Termination under this provision will be effective upon the date specified in the written notice of termination sent by County to Contractor. No costs incurred after the effective date of the termination will be paid.
- C. Termination for Cause. The County may terminate the Contract in whole or in part due to Contractor's material default in the performance of any of its obligations hereunder. In such an event, the County will provide Contractor written notice of the breach and an opportunity to cure. If the default has not been cured within time frame identified in the notice, the County shall have the right to immediately terminate this Contract. The County may, upon termination of this Contract, procure, on terms and in the manner it deems appropriate, materials or services to replace those under this Contract. In the event of termination, the Contractor shall be responsible to the County for the payment of any and all damages, including excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor.

## 6.2 PROCEDURES ON TERMINATION

- A. Upon receipt of notice of termination, Contractor shall continue to perform, in accordance with the requirements of the Contract up to the date of termination as directed in the termination notice, notify Personnel of the termination date, and minimize further costs. Upon termination, all goods, materials, documents, data, and reports prepared by Contractor under the Contract shall become the property of and delivered to the County on demand.
- B. Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted by the County before the effective date of termination, subject to offset as provided herein. No costs incurred after the effective date of the termination will be paid. In the event of termination or suspension of the contract by the County, such termination or suspension shall not affect the obligation of Contractor to indemnify the County for any claim by any third party against the State or the County arising from Contractor's performance of this contract and for which Contractor would otherwise be liable under this contract.
- C. Prior to or at the termination of the contract, Contractor shall make available all such information as requested by the County, including without limitation a readable electronic format specified by the County.
- D. All health care records will be returned to the County on or before the date provided in the notice of termination. Electronic Health Care Records will be returned to the County as provided herein and all physical records with Inmate health data shall be delivered to the County in file folders ordered by inmate number and stored in sequentially numbered catalogued boxes on acid free paper. An electronic catalogue of

the content of the boxes shall be supplied with the boxes.

ARTICLE 7. NOTICE AND CONTRACT REPRESENTATIVES

7.1 Any notices, demands and other communications required by the Contract will be effective if personally served upon the other Party or if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other Party’s Contract Representative at the address below. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day. Each Party will designate a “Contract Representative”, which may be changed by providing 15 days’ prior notice to the other.

County’s Contract Representative	Contractor’s Contract Representative
Name:	Name:
Title:	Title:
Address:	Address:
Phone:	Phone:
Fax:	Fax:

ARTICLE 8. INDEPENDENT CONTRACTOR

8.1 Each Party under the Contract shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the Parties. Contractor shall have complete responsibility and control over its Personnel. Neither Contractor nor its Personnel shall be, or be deemed to be, or act or purport to act, as an employee, agent or representative of the County.

8.2 Actions of Contractor’s Personnel shall be Contractor's responsibility. Contractor shall comply with all applicable government regulations related to the employment, compensation and payment of personnel. Contractor and its Personnel shall have no County employee-type benefits of any kind whatsoever, including without limitation, insurance, pension plan, vacation pay or sick pay, or other right or privilege afforded to County employees. Contractor and its Personnel shall be responsible for payment of all insurance, taxes, and benefits.

8.3 The County will not be responsible in any way for the damage or loss caused by fire, theft, accident, or otherwise to Contractor's stored supplies, materials, equipment, or personal property stored of Contractor’s Personnel stored on County property.

ARTICLE 9. RISK AND INDEMNIFICATION

9.1 RISK OF LOSS. Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase

order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

## 9.2 INDEMNIFICATION

- A. To the fullest extent permitted by law, Contractor agrees to indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively “Indemnitees”) from and against any and all Claims resulting from or in connection with the performance of the Contract, whether such Claims arise from the acts, errors, or omissions of Contractor, its Personnel, third-parties, or Kitsap County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors, or omissions any of them may be liable or based upon Contractor’s or its Personnel’s use of, presence upon or proximity to the property of the County. It is the specific intent of the Parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by Contractor from and against any and all Claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by Contractor for the County.
- B. With regard to any Claim against any Indemnitee by any of Contractor’s Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, Contractor’s indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or Contractor’s Personnel under workers’ compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) by application of any other worker's compensation act, disability benefit act or other employee benefit act. The foregoing indemnification obligations of Contractor are a material inducement to County to enter into the Contract, are reflected in Contractor’s compensation and mutually negotiated by the Parties.

- 9.3 CLAIM. “Claim” means any and all losses, claims, suits, actions, liabilities, damages, demands, judgments, settlements, expenses, fines, fees, and expenses of any kind or nature whatsoever, including without limitation, all costs including costs of Claim processing, investigation, litigation, reasonable attorneys’ fees, court costs, consequential damages, and punitive damages, for any bodily injury or personal injury (including death, sickness, injury, disease, or disability), or loss, damage or destruction of any tangible or intangible business or property, including the loss of use, caused or alleged to be caused, in whole or in part, by the negligent or willful acts, errors or omissions of Contractor, or any of its owners, officers, directors, or Personnel. Claim includes any claims of infringement of copyright, patent, trademark, or other proprietary rights of any third-parties arising out of Contract performance or use by the County of materials furnished or work performed under the Contract.

#### 9.4 NOTICE OF CLAIM AND TENDER

- A. Contractor shall promptly provide the County Representative written notice of 1) any occurrence or information known to Contractor that could reasonably result in a Claim against the County, or 2) any Claim made or filed against Contractor or its subcontractors regarding any matter resulting from, or relating to, Contractor's obligations under the Contract. Contractor will cooperate, assist, and consult with the County in the defense or investigation of any Claim against the County as a result of, or relating to, Contractor's performance under this Contract.
- B. County will promptly give written notice to Contractor's Representative of any Claim made or filed against the County by a third-party that may give rise to a Claim by the County against Contractor based on the indemnity contained herein. Contractor shall respond to the County's tender of defense of a claim in writing within 14 calendar days from the date of notice and will advise the County if Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due Contractor under the Contract until Contractor responds to such notice.
- C. Contractor shall keep the County timely and fully informed through all stages of the defense and promptly respond to and comply with County's requests for information. The County at all times reserves the right, but not the obligation to participate in the defense and settlement of any Claim. Such participation shall not constitute a waiver of Contractor's indemnity and defense obligations under the Contract. Contractor shall not settle or compromise any Claim without the prior written consent of the County. Violation of any provisions of this section, including improper refusal to accept tender, is a material breach.

- 9.5 INDEMNITY BY SUBCONTRACTORS. In the event Contractor enters into subcontracts to the extent allowed under this Contract, Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County.

#### ARTICLE 10. INSURANCE REQUIREMENTS

- 10.1 MINIMUM REQUIREMENTS. Contractor and its subcontractors, if any, shall procure and maintain, until all of Contract obligations have been fully discharged, including any warranty period, all insurance required in this section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VII and a category rating of not less than "8", with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this section, or the limits available under the policies maintained by Contractor without regard to the Contract, whichever is greater.

The required insurance coverage limits identified in this section shall be provided for each annual policy term. The Insurance Requirements herein are minimum requirements for this Contract and do not limit the indemnity covenants contained in the Contract. The

County in no way warrants the minimum limits contained herein are sufficient to protect Contractor from liabilities arise out of the performance of the work under this Contract by Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

10.2 COMMERCIAL GENERAL LIABILITY (“CGL”)

- A. Not less than \$5,000,000 per occurrence and \$10,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer’s liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover indemnification obligations required by the Contract.
- B. There shall be no exclusion or restriction preventing coverage from applying to injury caused by an act of Discrimination or a violation of Civil Rights, including but not limited to race, religion, sex, national origin as well as allegations for failure to provide adequate treatment. Communicable Diseases shall not be excluded from coverage. Coverage for Sexual Molestation and Abuse must not be excluded for the entity.

10.3 PROFESSIONAL LIABILITY (Medical Malpractice Including Managed Care Errors and Omissions). Not less than \$5,000,000 per occurrence and \$10,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with Contractor’s services under the Contract. The coverage shall not exclude bodily injury, property damage or hazards related to the work rendered as part of the Contract or within the scope of the Contractor’s services under the Contract, including testing, monitoring, measuring, operations or laboratory analysis where such Services are rendered under the Contract.

There shall be no exclusion or restriction preventing coverage from applying to injury caused by an act of Discrimination or a violation of Civil Rights, including but not limited to race, religion, sex, national origin as well as allegations for failure to provide adequate treatment. Communicable Diseases shall not be excluded from coverage. Coverage for Sexual Molestation and Abuse must not be excluded for the entity.

If the professional liability coverage is included on the same policy as the commercial general liability, limits of liability must be provided separately for each coverage, and not be subject to a \$10,000,000 policy aggregate.

10.4 NETWORK SECURITY (CYBER) AND PRIVACY LIABILITY. Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Such insurance shall include, but not be limited to, coverage for third-party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory

defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

- 10.5 BUSINESS AUTOMOBILE LIABILITY. Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contract, the coverage shall include owned, hired, and non-owned automobiles.
- 10.6 UMBRELLA OR EXCESS LIABILITY. Contractor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest “Each Occurrence” limit for either CGL or Automobile Liability. Contractor agrees to an endorsement naming the County as an additional insured as provided in this section unless the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.
- 10.7 WORKERS’ COMPENSATION AND EMPLOYER LIABILITY. If applicable, Contractor shall maintain workers’ compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor’s Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 10.8 PRIMARY, NON-CONTRIBUTORY INSURANCE/SUBCONTRACTORS. Contractor’s and its subcontractors’ insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor’s and its subcontractors’ liability insurance policies must be endorsed to show as primary coverage. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein. Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this Contract.
- 10.9 REVIEW OF POLICY PROVISIONS. Upon request, Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer’s financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and Contractor’s most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor

from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.

- 10.10 VERIFICATION OF COVERAGE. Contractor will be required to provide the following Certificate of Insurance within five (5) days after receipt of written notice of intent to award this contract. Contractor shall furnish the County with certificates of insurance (valid ACORD form or equivalent approved by the County) as required by this Contract. An authorized representative of the insurer shall sign the certificates.
- 10.11 WAIVER OF SUBROGATION. In consideration of the Contract award, Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 10.12 ADDITIONAL INSURED, ENDORSEMENT AND CERTIFICATE OF INSURANCE. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, it's elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if Contractor is a self-insured government entity or insured through a government risk pool authorized by Washington State. The Certificate of Insurance and endorsement shall identify the Contract number and shall require not less than 30 days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, Contractor shall provide the Certificate of Insurance, endorsement, and all insurance notices to: Risk Management Division, Kitsap County Department of Administrative Services, 614 Division Street, MS-7, Port Orchard, Washington 98366.
- 10.13 GENERAL. The coverage limits identified herein are minimum requirements only and will not in any manner limit or qualify the liabilities or obligations of Contractor under the Contract. All insurance policy deductibles and self-insured retentions for policies maintained under the Contract shall be paid by Contractor. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, or agents. Contractor's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, subject to the limits of the insurer's liability.
- 10.14 CLAIMS-MADE. In the event any insurance required by this Contract is written on a claims-made basis, Contractor warrants any retroactive date under the policy shall precede the effective date of the Contract and, either continuous coverage will be maintained, or Contractor shall purchase an extended-discovery period or "tail" coverage for a minimum period of three (3) years following completion of or attempted performance of this Contract.
- 10.15 SUBCONTRACTORS. Contractor shall establish and outline the insurance requirements for each subcontractor performing work under the Contract. Such insurance shall be in forms and limits customary in Washington for the specific services being provided by



each subcontractor. Such insurance shall include Kitsap County, and its officers, elected officials, directors, agents, and employees as additional insureds and waiver of subrogation with respect to all applicable policies. Contractor shall be responsible for confirming each subcontractor meets the established insurance requirements for the specific work or medical service being provided. Contractor is responsible for furnishing evidence of insurance to the County for each subcontractor.

- 10.16 APPROVAL AND MODIFICATIONS. The County reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary whose decision shall be final. Such action will not require a formal Contract amendment but may be made by administrative action.
- 10.17 JOINT VENTURES. If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: i) Separate insurance policies issued for each individual entity, with each entity included as a “Named Insured” (covered party), or at minimum named as an “Additional Insured” on the other’s policies. Coverage shall be at least as broad as required above, or ii) Joint insurance program with the association, partnership or other joint business venture included as a “Named Insured”.

#### ARTICLE 11. CONTRACT CHANGES, SUBCONTRACTS

- 11.1 AMENDMENT. No amendment or modification to the Contract will be effective without the prior written consent of the authorized representatives of the Parties.
- 11.2 SUCCESSORS AND ASSIGNS. To the extent permitted by law, the Contract is binding on the Parties’ respective partners, successors, assigns, executors, and legal representatives.
- 11.3 ASSIGNMENTS AND DELEGATION. Contractor shall not assign any right or delegate any duty under this Contract without the prior written consent of the County, which shall not be unreasonable withheld. This prohibition includes assignments or transfers, by merger (whether that Party is the surviving or disappearing entity), consolidation, dissolution, or operation of law. Any purported assignment or delegation in violation of this subsection shall be void.
- 11.4 SUBCONTRACTS. Contractor shall not subcontract any portion of this Contract, nor change approved subcontractors, without the prior written consent of the County. All subcontracts shall incorporate by reference the terms and conditions of this Contract. Contractor shall provide the County with verification of all subcontractors’ compliance with the indemnification and insurance requirements of this Contract upon request.

#### ARTICLE 12. OWNERSHIP, CONFIDENTIALITY, BREACH, RECORDS, AUDIT

- 12.1 OWNERSHIP. All data, reports, analyses, policies, procedures, medical records, mental health records, computer programs and other deliverable, created or prepared by Contractor under this Contract shall be the sole absolute property of the County. Contractor is not

entitled to a patent or copyright on those materials and shall not transfer the patent or copyright to anyone else. Contractor shall not use or release these materials without the prior written consent of the County.

- 12.2 OWNERSHIP OF INTELLECTUAL PROPERTY. All intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or resulting from this contract and any related subcontract (“Intellectual Property”), shall be work made for hire and the County shall be considered the creator of such Intellectual Property. The County retains the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the County, within 30- days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute all document(s) necessary to assure ownership of the Intellectual Property vests in the County and shall take no affirmative actions that may vest all or part of the Intellectual Property in any entity other than the County. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the County without the express written authorization of the County.
- 12.3 CONFIDENTIALITY OF RECORDS. Contractor shall establish and maintain procedures and controls, acceptable to the County for the purpose of assuring no information contained in its records or obtained from the County or from others in carrying out its functions under the Contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the County. Contractor agrees any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the County.
- 12.4 BREACH - INCIDENT RESPONSE REQUIREMENT
- A. Contractor shall immediately notify the County when any Contractor and/or subcontractor system that may access, process, or store County data or work product is subject to unintended access or attack. Unintended access or attack includes compromise by computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures. Notice shall be provided via electronic correspondence to the person identified in the Notice provisions herein.
- B. Contractor shall notify the County immediately upon knowledge of a threat to the Contractor and/or subcontractor's systems as it pertains to the use, disclosure, and security of County Sensitive Data. If an unauthorized use or disclosure of any Sensitive Data occurs, Contractor must provide electronic notification to the County immediately after the Contractor's discovery of such use or disclosure and, thereafter, all information the County requests concerning such unauthorized use or disclosure. Contractor, immediately upon discovery, shall report to the County any improper or non- authorized use or disclosure of Sensitive Data. Contractor's report shall identify: i) nature of the

unauthorized use or disclosure; ii) Sensitive Data used or disclosed; iii) who made the unauthorized use or received the unauthorized disclosure; iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure; and vi) shall provide such other information, including a written report, as reasonably requested by the County.

- C. Contractor shall ensure all personal identifying information, financial information, and other information submitted or made available to Contractor by, or on behalf of, the County, or acquired or developed by Contractor in the performance of the Contract is kept confidential, secured, and protected to prevent unauthorized access, unless publicly available. Such information will be utilized by Contractor solely as necessary for the performance of the Contract and not made available to any other person without the County's prior written consent. Upon expiration or termination of the Contract, all confidential information shall be returned to the County or destroyed at the County's discretion.
- D. Contractor shall, at its sole expense, comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification, including without limitation RCW 19.255.010, as in effect at any given time. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the County and its officials and employees from and against any claims, damages, costs, or other harm related to such security obligation breach or other event requiring the notification.

12.5 LOSS OF DATA. In the event of loss of any County data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the County. Contractor shall ensure all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that no actions of Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

12.6 PUBLIC RECORDS. Contractor acknowledges the Contract and all public records associated with the Contract shall be available to the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW ("Act"). To the extent that public records in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, Contractor shall make them promptly available to the County at no cost to the County. If Contractor considers any portion of any record provided to the County under the Contract, whether electronic or hard copy, to be protected from disclosure under the law, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information that has been identified by

Contractor as protected from disclosure and the County determines release of the information is required by the Act or otherwise appropriate, the County's sole obligation will be to make a reasonable effort to notify Contractor of the request and date such protected information will be released to the requester unless Contractor obtains a court order enjoining disclosure pursuant to RCW 42.56.540. If Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this section assumes, no obligation on behalf of Contractor to claim any exemption from disclosure under the Act. The County will not be liable to Contractor for releasing records in compliance with the Act, this section or court order.

- 12.7 AUDIT AND RECORD RETENTION. Contractor and its Personnel shall maintain and retain all books, documents, and records relating to performance of the Contract and services provided in connection with this Contract for six years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County at all reasonable times. In the event of any audit or records request, the Contractor shall provide assistance to the County, without additional compensation, to provided books, documents and records requested, and identify, investigate, and reconcile any audit discrepancies and/or variances. Contractor and its Staff shall fully cooperate with the County when the County is evaluating Contract compliance and conducting performance audits and financial audits, which shall include making all records requested by the County promptly available to the County for review, at no cost to the County.

#### ARTICLE 13. REPRESENTATIONS, WARRANTIES

- 13.1 NO FEE. Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 13.2 COMPLIANCE. Contractor represents and warrants: i) it is qualified to do business in the State of Washington and it will take such action as, from time to time hereafter, may be necessary to remain so qualified; ii) it is not in arrears with respect to the payment of any monies due and owing the state, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and it shall not become so in arrears during the term of this Contract; iii) it shall comply with all applicable Laws, Standards and Contract obligations; and iv) it shall obtain and maintain, at its expense, all licenses, permits, certifications, accreditations, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract; and
- 13.3 NON-DISCRIMINATION. Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.

- 13.4 LIENS. Contractor warrants the materials supplied under this Contract are free of liens and shall remain free of liens.
- 13.5 QUALITY. Unless otherwise modified elsewhere in these terms and conditions, Contractor warrants, for one year after acceptance by the County of the materials, it shall be: i) of a quality to pass without objection in the trade under the Contract description; ii) fit for the intended purposes for which the materials are used and all requirements of the Contract and representations of the Contractor; iii) within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units; and iv) conform to the written promises or affirmations of fact made by the Contractor.

ARTICLE 14. RIGHTS AND REMEDIES

- 14.1 NONCOMPLIANCE. If noncompliance issues are identified by the County, the County may provide a written cure notice to Contractor regarding the details of the noncompliance, the required corrective action, and the period of time allowed for bringing its performance back into compliance with the Contract requirements. If, at the end of the specified time period, Contractor has complied with the cure notice requirements, the County shall take no further action. If, however, Contractor has not complied with the cure notice requirements, the County may in its discretion take any action available under law or equity, including without limitation, monetary sanctions, suspension, refusal to renew, or termination of the Contract. The County may, upon termination of the Contract, procure on terms and in the manner it deems appropriate, Health Care Services to replace those under the Contract. Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring Services in substitution for those due from Contractor.
- 14.2 WITHHOLDING PAYMENT. In the event the County Representative determines 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 Representative determines such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided 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 10 days after it determines to withhold amounts otherwise due. A determination of the County Representative 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 the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Representative 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 so 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 Contractor by reason of good faith withholding by the County under this clause.

- 14.3 RECOVERY OF FUNDS. Whenever, under the Contract, any sum of money shall be recoverable from or payable by the Contractor to the County the same amount may be automatically deducted from any sum due to the Contractor under the Contract or under any other contract between the Contractor and the County including reasonable attorney fees and or any other collection costs. The rights of the County are in addition and without prejudice to any other right the County may have to claim the amount of any loss or damage suffered by the County on account of the acts or omissions of the Contractor.
- 14.4 RIGHT OF ASSURANCE. If the County in good faith has reason to believe Contractor will not or cannot perform or continue performing under the Contract, the County may demand in writing that Contractor give a written assurance of intent and/or ability to perform. Failure by Contractor to adequately address all issues of concern to the reasonable satisfaction of the County, within the number of days specified the demand may, may result in the County resorting to any single or combination of the following remedies: cancel any contract; reserve all rights or claims for damage for breach or any covenants of the Contract; and/or all other rights and remedies available under this Contract and/or as provided by law.
- 14.5 RESPONSIBILITY FOR ERRORS. All Services shall be completed to the satisfaction of the County and as required herein. Upon request, Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 14.6 RIGHT OF OFFSET. The County shall be entitled to offset against any sums due Contractor, any expenses or costs incurred by the County, or damages assessed by the County concerning Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.
- 14.7 REMEDIES. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies available to the County at law and in equity.
- 14.8 NONCONFORMING TENDER. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the County may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code or pursue any other right or remedy available to it.
- 14.9 NON-EXCLUSIVE REMEDIES. The rights and the remedies of the County under this Contract are not exclusive.

ARTICLE 15. PERFORMANCE MEASURES

15.1 PERFORMANCE MEASURES. The Parties agree it would be impractical and extremely difficult to assess the actual damage sustained by the County in the event of delays or failures in Service. The Parties presume in the event of any such failure to perform to the Standards, the amount of damages which will be sustained will be the amounts provided in the Contract, which represent both Parties' best estimate of the damages resulting from the injury that in the event of any such failure, Contractor shall pay such amounts as liquidated damages and not as a penalty. For amounts due the County as liquidated damages, the County may deduct from any money payable to the Contractor or may bill the Contractor as a separate item. By executing this Contract, Contractor expressly agrees to the amount, and imposition, of liquidated damages, as provided in the Contract. The County will provide written notice to the Contractor's Representative of all liquidated damages assessed quarterly accompanied by detail sufficient for justification of the assessment.

ARTICLE 15. GOVERNING LAW, DISPUTES

15.1 GOVERNING LAW; VENUE. This Contract has and shall be construed as having been made and delivered in the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provisions hereto shall be instituted only in courts of competent jurisdiction within Kitsap County, Washington, unless relocation or commencement elsewhere is required by law.

15.2 DISPUTES. All dispute between the Parties related to the Contract will be promptly brought to the attention of the County. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor shall be brought to the attention of the County Representative at the earliest possible time in order that such matters may be settled, or other appropriate action promptly taken by the County's Representative. All decisions of the County's Representative are considered final; however, nothing herein prohibits either Party from seeking judicial relief.

ARTICLE 16. GENERAL PROVISIONS

16.1 ADVERTISING, LOGO. Contractor shall not use, advertise, or promote information for commercial benefit concerning the Contract or use any trade name, trademark, or logo of the County, or County Departments, without the County's prior written consent.

16.2 IMPLIED CONTRACT TERMS. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.

16.3 CONTRACT ORDER OF PRECEDENCE. In the event of a conflict in the provisions of the Contract, as accepted by the County and they may be amended, the following shall prevail in the order set forth: 1) Contract; 2) scope of work; 3) request for proposal; 4) documents referenced or included in the RFP; and 5) Proposal as accepted by the County

- 16.4 HEADINGS/CAPTIONS. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 16.5 NO PARTY THE DRAFTER. The Contract is the product of negotiation between the Parties, and no Party is deemed the drafter of the Contract.
- 16.6 NO THIRD-PARTY BENEFICIARY. No provision of the Contract is intended to, nor will it be construed to, create any third-party beneficiary or provide any rights or benefits to any person or entity other than the County and Contractor.
- 16.7 NO PAROLE EVIDENCE. This Contract is intended by the Parties as a final and complete expression of their agreement. No course of prior dealings between the Parties and no usage of the trade shall supplement or explain any terms used in the Contract and no other understanding either oral or in writing shall be binding.
- 16.8 SEVERABILITY. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 16.9 NO WAIVER. Either Party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the Party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.
- 16.10 COUNTERPARTS. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.
- 16.11 SURVIVAL. Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect. Those provisions include, without limitation: Article 8 (Independent Contractor), Article 9 (Risk and Indemnification), Article 10 (Insurance Requirements), Article 12 (Ownership, Confidentiality, Breach and Audits), Article 14 (Rights and Remedies), and Article 15 (Governing law, Disputes).
- 16.12 ENTIRE AGREEMENT. The Parties acknowledge the Contract is the product of negotiation between the Parties and represents the entire agreement of the Parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 16.13 AUTHORIZATION. Each Party signing this Contract warrants to the other Party, that they have the full power and authority to execute this Contract on behalf of the Party for whom they sign.



Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

**CONTRACTOR NAME**

**KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
**JOHN GESE, SHERIFF**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**DATED** or **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
**KATHERINE T. WALTERS, Chair**

\_\_\_\_\_  
**CHRISTINE ROLFES, Commissioner**

ATTEST:

\_\_\_\_\_  
**CHARLOTTE GARRIDO, Commissioner**

\_\_\_\_\_  
DANA DANIELS, Clerk of the Board

	ATTACHMENT H RFP 2024-022	Purchasing Department 619 Division St., 4 <sup>th</sup> Floor Port Orchard, WA 98366
	BUSINESS ASSOCIATE AGREEMENT	

This HIPAA Business Associate Agreement (“Agreement”) is made part of the Contract between Kitsap County (“Covered Entity”) and Contractor (“Business Associate”) as a condition of the Contract. The parties agree as follows:

SECTION 1. PURPOSE

The Contract Services may require the Covered Entity to make certain information available to the Business Associate for business purposes, some of which may constitute Protected Health Information (“PHI”). Accordingly, the Covered Entity is required to enter into a Business Associate Agreement with the Business Associate to protect the privacy and security of PHI pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as modified by the American Recovery and Reinvestment Act of 2009, Sec. 13400-13424, J.R. 1 (2009) and 45 CFR Part 160 and Part 164.

SECTION 2. DEFINITIONS

- 2.1 Business Associate means the “Contractor” and shall have the same meaning as the term “business associate” at 45 CFR 160.103. Any reference to Business Associate in this Agreement includes the Business Associate’s employees, agents, Subcontractors, independent contractors, and representatives.
- 2.2 Covered Entity means the “County” and shall have the same meaning as the term “Covered Entity” in 45 CFR 160.103.
- 2.3 HIPAA means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 (ARRA), Sec. 13400-13424, H.R.1 (2009).
- 2.4 HIPAA Rules means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 and the Washington State Uniform Health Care Information Act, Chapter 70.02 RCW (“UHCIA”), as in effect.
- 2.5 Subcontractor means, in addition to the Contract definition, a Business Associate that uses, creates, receives, maintains, or transmits PHI on behalf of another Business Associate.
- 2.6 Catch-All Definition. The following terms used in this Agreement shall have the same meaning as those terms which have been defined by the HIPAA Rules unless otherwise provided herein: Breach, Covered Entity, Designated Record Set, Disclosure, Electronic Protected Health Information (“E PHI”), Health Care Operations, Individual(S), Minimum Necessary, Notice of Privacy Practices, Protected Health Information (“PHI”), Required by Law, Secretary, Security Incident, Subcontractor, Unauthorized Use, Unsecured PHI

and Use.

### SECTION 3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- 3.1 Compliance. Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all applicable law.
- 3.2 Use and Disclosure. Business Associate shall Use or disclose PHI only as necessary to perform the Services specified in the Contract and in compliance with this Agreement and as required by state and federal confidentiality and security laws. Business Associate shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity.
- 3.3 Minimum Necessary Standard. Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI as necessary to achieve the lawful purpose of the Contract. See 45 CFR 164.514(d)(1) - (d)(5).
- 3.4 Duty to Protect PHI. Business Associate shall implement and Use appropriate safeguards to maintain and ensure the confidentiality, privacy and security of all PHI and comply with Subpart C of 45 CFR Part 164 with respect to EPHI to prevent unauthorized Use or disclosure of EPHI other than as provided for in the Contract or as required by law, for the duration that PHI is within its possession and control, even after the termination or expiration of the Contract. Business Associate shall Use, store and transmit PHI in an encrypted format as required by the HIPAA Rules.
- 3.5 Use for Proper Management and Administration. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 3.6 Proper Management and Administration. Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided such disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and be Used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- 3.7 Obligations. To the extent the Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to the Covered Entity in the performance of such obligation(s).
- 3.8 Liability. Within ten (10) business days, Business Associate must notify the Covered Entity of any complaint, enforcement or compliance action initiated by the Office for Civil Rights

based on an allegation of violation of the HIPAA Rules and must inform the Covered Entity of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.

- 3.9 Business Associate shall at no cost, within five (5) days of a request from and in a manner designated by the Covered Entity, comply as follows:
- 3.9.1 When a request is made by an Individual to the Business Associate or if the Covered Entity asks the Business Associate to respond to a request, the Business Associate shall comply with requirements of 45 CFR 164.524 on form, time and manner of access.
  - 3.9.2 Provide the Covered Entity all PHI in a designated record set as necessary to satisfy the Covered Entity's obligations under 45 CFR 164.524.
  - 3.9.3 Maintain and provide all PHI and other information necessary to provide an accounting of disclosures to the Covered Entity sufficient to satisfy the Covered Entity's obligations under 45 CFR 164.525 and 45 CFR 164.528.
  - 3.9.4 Make any amendment(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526 and take other measures as necessary to satisfy the Covered Entity's obligations under 45 CFR 164.526.
- 3.10 Disclosure to Third Parties. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall require any agent, including its Subcontractors, that create, receive, maintain or transmit PHI on behalf of the Business Associate shall agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall ensure that such agents and Subcontractors agree to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of such agents and Subcontractors providing the Services as if they were Business Associate's own acts, failures or omissions, to the extent permitted by law. Business Associate further expressly warrants that its agents and Subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.
- 3.11 Rights of Proprietary Information. The Covered Entity retains all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.

#### SECTION 4. AUDITS AND ACCESS TO RECORDS

- 4.1 Audits, Inspection and Enforcement. Within ten (10) business days of a request from the Covered Entity, Business Associate shall provide the Covered Entity reasonable access to inspect, at a reasonable time, the facilities, systems, books, records, agreements, policies and

procedures relating to the Use and disclosure of PHI and security safeguards required herein to ensure compliance with this Agreement and HIPAA Rules. The fact that the Covered Entity inspects, or fails to inspect or inspects and fails to notify Business Associate of its deficiencies shall not constitute acceptance of any deficiency or waiver of the Covered Entity's enforcement rights under this Agreement.

- 4.2 Internal Practices, Books, and Records. Business Associate shall make available its internal practices, books, and records relating to the Use and disclosure of PHI received from, created, or received by Business Associate on behalf of the Covered Entity to the U.S. Department of Health and Human Services or its agents for the purpose of determining the Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency, or to the Covered Entity.
- 4.3 Quarterly Audit. The County will contract with an independent third-party vendor to quarterly audit this Contract to determine Contract compliance, staffing credits, and liquidated damages. The Contractor shall be required to fully cooperate with all quarterly audits, and provide the third-party full unrestricted access to all records, files, and information requested by the County and/or third-party vendor. The Contractor will be required to pay for the quarterly audit, unless the Contractor is found to be in full compliance. In the event there is full compliance, the County will pay half of the cost for the third-party vendor for the quarters in which there has been full compliance.

## SECTION 5. INDIVIDUAL RIGHTS, ACCOUNTING OF DISCLOSURES

- 5.1 Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.
- 5.2 Within ten (10) business days of a request from the Covered Entity, Business Associate shall make available to the Covered Entity the information in Business Associate's possession that is necessary for the Covered Entity to respond in a timely manner to a request for an accounting of disclosures of PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).
- 5.3 At the request of the Covered Entity or in response to a request made directly to the Business Associate by an individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.
- 5.4 Business Associate record keeping procedures shall be sufficient to respond to a request for an accounting under this section for the six (6) years prior to the date on which the accounting was requested.

## SECTION 6. IMPROPER USE OR DISCLOSURE OF PHI AND BREACH

- 6.1 Improper Use or Disclosure. Business Associate shall report to the Covered Entity in writing all Uses or disclosures of PHI not provided for by this Agreement within three

business days of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), and any Security Incident of which it becomes aware.

- 6.2 Mitigation. If Business Associate violates this Agreement or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such breach.
- 6.3 “Breach” is defined in the Breach Notification Rule (“Rule”), 45 CFR Sections 164.400-414. The time when a Breach is considered to have been discovered is set forth in the Breach Notification Rule.
- 6.4 In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI received from the Covered Entity, or created, maintained, or received on behalf of the Covered Entity, Business Associate will take all measures required by all applicable law.
- 6.5 Business Associate will notify the Covered Entity both in writing and by telephone within three (3) business days of any acquisition, access, Use or disclosure of PHI, of which it becomes aware, that may potentially compromise the security or privacy of the PHI by the Business Associate or its Subcontractors or agents and is not authorized by this Agreement, the HIPAA Rules or required by law. Such notice shall include a written explanation of the Breach, to include the following: date and time of the Breach, the date the Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the Contract Representative. Business Associate will work cooperatively with the Covered Entity and provide a copy of its investigation and any other information requested by the Covered Entity including advance copies of any required notifications for prior review by the Covered Entity.
- 6.6 If Business Associate does not have full details at that time, it will promptly report the information it has, and provide full details within ten (10) days of discovery. The initial report may be oral, with a written report to be provided as soon as possible. The Business Associate shall promptly provide all information required for notification pursuant to 45 CFR Sections 164.410 and 164.402, and any other information the Covered Entity reasonably requests, as soon as the information becomes available. Business Associate will promptly notify the Covered Entity if it determines it has or may have an independent notification obligation under any federal or state breach notification laws and advise the Covered Entity of its intent to give notice and a copy of the notice for prior review.
- 6.7 If either the Covered Entity or Contractor determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach within the meaning of the Breach Notification Rule, and notification is required under the Breach Notification Rule, or RCW 42.56.590 or chapter 19.215 RCW, or other law or rule, then:

- 6.7.1 The Covered Entity may choose to make any notifications to affected individuals, the Secretary, the media, and/or governmental agencies, or direct the Business Associate to make all or part of them.
  - 6.7.2 In any case, Business Associate bears the responsibility and costs for: i) notifying the affected individuals, media, the Secretary, and governmental agencies; ii) receiving and responding to questions and requests for additional information from the affected Individuals, the media, the Secretary, and governmental agencies; and iii) such other actions reasonably appropriate to protect the information as requested by the Covered Entity or required provided by Law.
  - 6.7.3 Business Associate will compensate the Covered Entity and others for harm caused to them by the Breach or possible Breach described above.
  - 6.7.4 The Covered Entity will take appropriate remedial measures up to termination of the Contract.
- 6.8 Failure to Cure. If the Covered Entity learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of the Contract and reasonable steps by the Covered Entity do not end the violation, the Covered Entity shall terminate the Contract, if feasible. In addition, if Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of the Contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the subcontract, if feasible.

## SECTION 7. EFFECTIVE DATE AND TERMINATION

- 7.1 Term. This Agreement is effective when the Contract is executed by the parties and shall survive the expiration or termination of the Contract as long as Business Associate continues to Use or retains PHI received from the Covered Entity, or created, maintained, or received on behalf of the Covered Entity in any form, unless otherwise provided herein.
- 7.2 Termination for Cause. The Covered Entity may terminate this Agreement if the Covered Entity determines the Business Associate has violated a material term of this Agreement. The Covered Entity may, at its sole option, offer Business Associate an opportunity to cure a violation of this Agreement before exercising a termination for cause. Termination will be effective as of the date stated in the notice of termination.
- 7.3 Failure to Cure. If the Covered Entity learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Agreement and reasonable steps by the Covered Entity do not end the violation, the Covered Entity shall terminate this Agreement, if feasible. In addition, if Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of this Agreement

and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the subcontract, if feasible.

- 7.4 Return or Destruction. Upon expiration or termination of this Agreement for any reason, Business Associate shall return to the Covered Entity all PHI received from the Covered Entity, or created, maintained, or received on behalf of the Covered Entity that Business Associate still maintains in any form or, if agreed to by the Covered Entity, destroy the same, unless otherwise required by law. For purposes of this subsection, to destroy PHI is to render it unusable, unreadable, or indecipherable to the extent necessary to establish it is not Unsecured PHI, and Business Associate will provide the Covered Entity with appropriate evidence of destruction within ten (10) days of the destruction. The Business Associate shall retain no copies of PHI unless otherwise agreed to by the parties.
- 7.5 Retained PHI. Upon written consent of the Covered Entity, the Business Associate may retain only that PHI necessary to continue its proper management and administration or to carry out its legal responsibilities. In such an event, Business Associate shall:
- 7.5.1 Continue to use appropriate safeguards and comply with the terms and conditions of this Agreement and HIPAA Rules;
  - 7.5.2. Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the terms and conditions of this Agreement; and
  - 7.5.3. Return to the Covered Entity or destroy in compliance with subsection 7.4 the PHI retained by Business Associate when it is no longer needed for its proper management and administration or to carry out its legal responsibilities.

## SECTION 8. INDEMNIFICATION

To the extent permitted by law, Business Associate agrees to indemnify, defend and hold harmless the Covered Entity, and all elected officials, officers, employees and agents of the Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by the Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or its agents in connection with the performance of Business Associate's or its agents' duties under this Agreement. This indemnity shall not be construed to limit Covered Entity's rights, if any, to common law indemnity.

## SECTION 9. MISCELLANEOUS PROVISIONS

- 9.1 Disclaimer. The Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement will be adequate or satisfactory for Business Associate's own purpose. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.



- 9.2 Survival. The obligations of the Business Associate in this Agreement shall survive the expiration or termination of the Contract.
- 9.3 Regulatory References. A reference in this Agreement to a section in HIPAA, the HIPAA Rules or UHCIA means the section as in effect or as amended.
- 9.4 Amendment. The parties agree to take all actions to amend this Agreement from time to time as is necessary to remain in compliance with HIPAA, the HIPAA Rules, and applicable law.
- 9.5 Severability. If any provision in this Agreement is invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.
- 9.6 Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA, the HIPAA Rules and UHCIA.
- 9.7 Covered Entity Contact for Reporting and Notification Requirements. Business Associate will address all reporting and notification communications required in this Agreement to the Covered Entity Representative as identified in the Contract.

DATED this \_\_\_\_ day \_\_\_\_\_, 2024

**CONTRACTOR, BUSINESS ASSOCIATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_



ATTACHMENT I  
RFP 2024-022

Purchasing Department  
619 Division St., 4<sup>th</sup> Floor  
Port Orchard, WA 98366

LIQUIDATED DAMAGES

- A. The Liquidated damages below may be assessed in addition to those identified in the RFP. A finding of noncompliance with any of the performance indicators below will result in the assessment of the corresponding liquidated damages amount.
- B. Liquidated damages are:
1. calculated and assessed no more than once per quarter. are calculated and assessed/awarded no more often than once a quarter;
  2. calculated on full percentage points after rounding;
  3. calculated as the stated damages amount multiplied by the number of percentage points variance from the threshold value, unless otherwise indicated;
  4. calculated using the event as the unit of analysis, unless otherwise specified;
  5. based on events only occurring during the quarter under review (In other words, the audit may not look back at events from previous quarters).
- C. An individual patient record may be used in the audit of more than one Performance Indicator. Multiple events in an individual patient record may be used in the audit of a single Performance Indicator. For example, if a patient were sent to the ER on two occasions, both visits may be counted individually in the audit.

	<b>Performance Indicator</b>	<b>Threshold Value</b>	<b>Liquidated Damages (LD)</b>
1.	Findings on Receiving Screening are handled as follows: <ul style="list-style-type: none"> <li>• Any patient with an active non-chronic disease, stable or non-stable: nurse contacts a practitioner and follows up as ordered;</li> <li>• Any patient with an unstable chronic disease: the nurse contacts a practitioner, and patient is seen by a practitioner within 2 days;</li> <li>• Any patient with a stable chronic disease: patient is seen by a practitioner within 5 days.</li> </ul>	95%	\$1,000.
2.	Health Care records are requested immediately upon arrival when clinically appropriate. Where there is a reasonable suspicion patient may have a health condition and/or be taking medications, but no records have been received, a practitioner will be contacted in a clinically appropriate timeframe, but no later than 24 hours, to determine appropriate care.	98%	\$1,500.
3.	Upon arrival at the jail, patients receive the next scheduled dose of any medication they should be taking within the time frame unless otherwise ordered by a practitioner.	92%	\$750.

4.	New medications administered within timeframe ordered by the physician or, if none was specified, within a clinically appropriate timeframe not to exceed 24 hours.	95%	\$1,000.
5.	On-going medications administered without gap across refill and renewal junctures. If a patient with the capacity to participate with the refill or renewal process fails to follow the relevant instructions, a resultant gap will not be counted as a failure.	98%	\$1,500.
6.	Contractor will invoice County monthly for pharmaceuticals administered and not included in the base per inmate price. The invoice shall be accurate and bear the inmates' name, medication, dates administered, and cost.	90%	\$3,000. for each occurrence
7.	Nurses conduct and document of medication administration according to the Contract and policy. The unit of analysis is patient-dosing time. Multiple errors in administration of medications to a single patient at the morning pill line on a single day, this would count as a single failure.	98%	\$2,000.
8.	Patients with dental non-emergencies/urgencies are seen by a dentist within two weeks of referral.	90%	\$500.
9.	All Services (and documentation of such care) delivered during any clinical event is appropriate. This includes care delivered by nursing staff and practitioners for all visits or decisions regarding patient care, including but limited to intake screening, health assessments, emergent, urgent, or episodic care, annual assessments, mandated assessments, chronic care, telephone consultations, utilization decision, decisions resulting from review of records.	98%	\$2,000.
10.	Unscheduled hospital/ER/urgent care center usage is unpreventable (i.e. more likely than not the unscheduled event did not result from deficient ambulatory care prior to the event).	100%	\$3,000. per event plus actual custody staff & transportation costs and health care costs. <sup>1</sup>
11.	Unscheduled hospital/ER/urgent care center usage is unavoidable (i.e. the event could not have been managed in a less expensive manner).	95%	Actual custody staff & transportation costs and health care costs
12.	All deaths are unavoidable.	100%	\$10,000.
13.	Patients with a diagnosis of hypertension who have been in facility for more than 3 months have blood pressures at or below target.	80%	\$500.
14.	Patients with a diagnosis of diabetes who have been in facility for more than 3 months have HgA1c values at or below 7.5%.	80%	\$500.

<sup>1</sup> For any penalty greater than \$15,000, at the Contractor's request, the case may be referred to 3 physician panel including the original reviewer, a non-involved physician of the Contractor's choosing, and a physician of the County's choosing, the final decision to be made by majority vote

15.	Nursing and practitioner plans or orders for requests for tests, interventions, referrals, or outside records, are only ordered by appropriately licensed staff and executed, received, reviewed timely and in accordance with policy.	98%	\$1,500.
16.	Upon return from any off-site clinical trip, all inmates are evaluated (including receipt and review of a patient-specific clinical report with findings and recommendations if any recommendations were generated during visit) by an RN or practitioner prior to inmate returning to the living unit.	98%	\$2,000.
17.	Upon return from an ER or urgent care center visit, procedure, hospitalization, or any other trip resulting in immediate recommendations, if the evaluation is conducted by an RN, the RN discusses the case with a practitioner.	98%	\$1,500.
18.	Recommendations received from an ER or urgent care center visit, procedure, hospitalization, or any other consultation are followed by the Contractor unless the reason for not following them is obvious or an appropriate rationale is documented.	95%	\$1,000.
19.	Inmates admitted to a hospital are returned to the jail as soon as it is clinically safe to do so possible. Where such date of discharge is sooner than the actual date of discharge, there is documentation of Contractors good faith efforts to secure an earlier release.	100%	Actual cost of unnecessary hospitalization (custody staff + hospital charges)
20.	All refusals for medications, clinical encounters, and interventions shall be received in person by health care staff and in accordance with policy.	95%	\$1,500.
21.	All grievances are addressed appropriately, timely, and respectfully, and in accordance with policy, and include face-to-face encounters when appropriate. Emergency grievances are, at a minimum, assessed as soon as they are received. In other words, if the assessment reveals that there is no clinical emergency, the grievance may be resolved as would a non-emergency grievance.	90%	\$500. per inmate
22.	All reports are submitted as required by the contract.	100%	\$100. per report, per business day overdue (Monday-Friday, excluding federal Holidays)
23.	All near misses and adverse events have been captured in the quality improvement system.	100%	\$2,000. per event



**ATTACHMENT J  
RFP 2024-022**

Purchasing Department  
619 Division St., 4<sup>th</sup> Floor  
Port Orchard, WA 98366

**REQUIRED REPORTING**

	<b>NAME</b>	<b>DESCRIPTION</b>	<b>FREQUENCY</b>	<b>DUE DATE</b>
1.	Chronic Condition, Disease Management Program Report	Number of inmates identified with a chronic condition and/or disease by condition and/or disease.	Monthly	10th of Month
2.	Clinical Data Report	Detailed health services data, to include chronic condition, infectious disease and notification of reporting to County Health Dept., and outside consult data.	Monthly	April 15, July 15, Oct. 15, Jan. 15
3.	Sick Call Needs Requests, Appointment Report	Appointments resulting from inmate Sick Call requests submitted to health unit, include number of appointments, date of	Monthly	10th of Month
4.	Hepatitis C Report	Number of inmates with Hepatitis C in treatment. Number of inmates with Hepatitis C - end of treatment responses.	Monthly	10th of Month
5.	Emergency Room and Hospitalization Statistics Report	Hospitalization information including number of admissions, length of stay; to include levels of care, i.e. emergency room, ICU, surgery, routine, maternity, psychiatric, etc.	Monthly	10th of Month
6.	Infectious Disease Report	Number of inmates with Infectious Diseases, including but not limited to, HIV/AIDS, Chlamydia, Gonorrhea,	Quarterly	April 15, July 15 Oct. 15, Jan. 15
7.	Inmate Wait Times Report	Identify wait times for inmates to be seen by Health Care Staff.	Monthly	10th of Month
8.	Medical Transports Statewide Report	Report, by inmate, of all medical off-site transports.	Monthly	10th of Month
9.	Medication Report	Medication data by unit, include number of inmates taking medication, medication, purpose, cost, and number of inmates started on psychiatric medications. Medication expiration reports. Non- formulary tracking for	Monthly	10th of Month
10.	Medication Dispensing and Refusals Report	Report, by inmate, i) for all new prescriptions, ii) time between prescription and first delivery of medications, and iii) all problems and	Monthly	10th of Month
11.	Mortality Review Reports	Mortality Review Case Abstract and Cover Sheet.	Per Incident	10 days after incident
12.	Professional Licensing Board Notifications	Notification of Professional Licensing Board violations.	Per incident	Day of occurrence
13.	Staffing Report	Health care services detailed staffing and vacancy rate by employee and position.	Monthly	10th of Month
14.	Third Party Claims	Insurance claims submitted and/or paid for third party claims reimbursement.	Quarterly	April 15, July 15 Oct. 15, Jan. 15

15.	Update of Policies and Procedures	Inform Jail of all policy changes.	Per Incident	Within 24-hours of occurrence
16.	Unaudited Quarterly and Audited Annual Financial Statements specific revenue and expenses of Contract.	One copy of Financial Statements (in a format determined by the Department) including but not limited to an income statement.	Quarterly and Annually	April 15, July 15 Oct. 15, Jan. 15
17.	Ad Hoc Reports	Information pertaining to contract compliance or other reports or information that may be required to respond to grievances, inquires,	Per Request	Within 72 hours of receipt of request
18.	Annual Reporting	Comprehensive annual statistical report for previous year.	Annually	February 1
19.	Daily Reporting	Daily statistical report reflecting the prior 24 hours. At minimum, Contractor shall provide the following statistical data in the daily report: Transfers to off-site hospital emergency rooms; Communicable/infectious disease reporting; Suicide data (i.e., attempts & precautions taken); Mortality data; Status of inmates in local hospitals; Completed medical incident reports;	Daily	Daily prior to 9:00 am
20.	Weekly Mental Health Services requests	Identify date and time request received, inmate name and identification number, date and time inmate examined by a	Weekly	Mondays at 9:00 am
21.	Daily Shift Coverage and Attendance	Identify names, job title, shift and specific hours to be worked for all Staff providing Services under the Contract for the next 24 hours as well as verifying attendance and hours for the	Daily	Daily by 9:00 am
22.	Monthly Shift Coverage – Current Month	Identify names, job title, shift and specific hours filled for the prior month and to be worked for subsequent month. Report should identify	Monthly	By the last day of each month
23.	Monthly Shift Coverage – Prior Month	A monthly shift coverage report identifying names, job title, shift, actual hours worked, supporting payroll and automated time-keeping information that demonstrates and verifies filled and unfilled hours per position, for the prior month consistent Staffing Matrix.	Monthly	By the 5 <sup>th</sup> day of each month

- Monthly due date is for the following month.
- Reports shall be submitted in a format approved by the Chief.
- All reports are to be submitted both to the Chief and Lieutenant. Waiver of receipt of a report by the Chief, will not waive receipt of the report due the Lieutenant and vice versa.

