

Request for Proposals

Substance Abuse Monitoring

Offered by

Thurston County District Court

February 23, 2022

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1. OVERVIEW

The Thurston County District Court (DISTRICT COURT) is offering this Request for Proposal (RFP) to solicit organizations, hereafter called “Vendor”, interested in providing substance abuse monitoring services through the issuance and maintenance of transdermal blood alcohol monitoring devices (BAMD) and urinalysis (UA) testing for persons ordered to these conditions by DISTRICT COURT. The selected Vendor solution and support shall meet all the requirements of the Substance Abuse Monitoring Program presented in the Contract requirements including ongoing tracking and data reporting of supporting services.

1.1 Background

DISTRICT COURT is a court of limited jurisdiction; this level of the judicial system addresses approximately 87% of the state’s judicial caseload. DISTRICT COURT provides court services to Thurston County to include contracted services with City of Lacey, City of Tumwater, City of Rainier, and City of Yelm. DISTRICT COURT addresses a yearly average of 23,000 infractions, 5,000 misdemeanors, and 5,000 civil and small claims cases. Over a period of 90 days, DISTRICT COURT can have approximately 450 individuals ordered to BAMD monitoring by the Court.

1.2 General

DISTRICT COURT has been appropriated funding for the 2022-2023 biennium to support the use of technology in lieu of incarceration, to ensure compliance, enhance public safety, and limit barriers to defendants involved in the justice system. This would be accomplished through the provision of transdermal blood alcohol monitoring devices (BAMD) and random urinalysis (UA) testing to those defendants ordered to conditions of release by the Court. This opportunity provides a proactive approach to case condition monitoring, increasing the compliance rates of defendants while decreasing the rates of incarceration, the costs to county departments, and the barriers to successful compliance of those defendants.

Often, defendants are unable to afford costs of BAMD or UA testing, resulting in non-compliance with court orders. Non-compliance results in an increased safety risk to the public, as well as costs to the County in the form of law enforcement, corrections, probation, court clerk, and judicial time. Further, impact on the defendant can include incarceration, job loss, and limited/no personal funds available for basic living needs such as housing, food, and childcare. This resource will allow for a more efficient and progressive means to providing BAMD or UA testing services to defendants, and mitigating the barriers presented.

1.3 Scope of Work

DISTRICT COURT is seeking a Vendor to provide BAMD and UA services for qualified defendants ordered to these conditions of release by the Court. DISTRICT COURT will identify those defendants who qualify for the program and provide a Court Order to be received by the Vendor. The Vendor shall furnish all labor and hardware/software required to install and monitor a BAMD to the defendant or conduct UA services as directed by the Order. These services will be recorded through Vendor software and provided to DISTRICT COURT as determined. Invoices for services of the Vendor will be submitted to DISTRICT COURT monthly. See Exhibit A of the Professional Services Contract for detailed program requirements.

It is a requirement of this RFP that the Vendor solution provide the installation and monitoring of the BAMD, the collection of UA and testing, and defined reporting as provided in Exhibit A Statement of Work. It is also required that the Vendor provide a service location for the installation/removal of the BAMD and collection of UA within THURSTON COUNTY, WA. The identified services and service location not being provided or proposed to be provided by the date of execution of the Contract within THURSTON COUNTY, WA will disqualify the Vendor. Acceptable proposed solutions may include subcontractor services as defined in Section 2.7, meeting all requirements of the Attachment B Sample Contract.

1.4 Funding

This program is authorized by the Thurston County Board of County Commissioners. Funding has been appropriated for this program from the American Rescue Plan Act (ARPA) of 2021 during the 2022-2023 biennium in the amount of \$500,000. DISTRICT COURT neither represents nor guarantees any minimum payment to the Vendor. Funding in future biennia is subject to appropriation by Thurston County.

1.5 Contract Term

The contract that will result from this acquisition will be effective upon the last date of the final signature of both parties. The contract will provide for an initial term to expire 31 December 2023 and provide, at the option of DISTRICT COURT, for additional one (1) year terms upon agreement by contract amendment. All contract terms are dependent upon funding appropriated by Thurston County.

1.6 Communications

All communications concerning this acquisition must be directed to the DISTRICT COURT Court Executive Officer and Adult Probation Supervisor. Unauthorized contact regarding the RFP with other county employees may result in disqualification. Any oral communications will be considered unofficial and non-binding. Vendors shall reply only on written statements issued by the DISTRICT COURT contacts.

1.7 Contacts

During this procurement, all communications between Vendors and DISTRICT COURT shall be directed to:

Frankie Peters, Court Executive Officer
Telephone: 360-786-5225
Email: frankie.peters@co.thurston.wa.us

Raul Salazar, Adult Probation Supervisor
Telephone: 360-754-4458
Email: raul.salazar@co.thurston.wa.us

If using USPS, UPS, FedEx, etc.:

Thurston County District Court
Attn: Frankie Peters
2000 Lakeridge Dr. SW, Bldg. 3
Olympia, WA 98502

1.8 Acquisition Schedule

Event	Dates
Request for Proposals Release Date	February 23, 2022
Vendor Proposal Questions Due (on or before)	March 15, 2022
Vendor Proposals Due	April 1, 2022
Vendor Interview (if needed)	April 8, 2022
Notification of Successful Vendor (on or before)	April 18, 2022
Contract Execution (on or before)	May 16, 2022

1.9 Delivery of Proposals

Proposals must be received by the DISTRICT COURT contacts provided no later than the date provided in Section 1.8. Late Proposals shall not be accepted and shall automatically be disqualified from further consideration. The method of delivery shall be at Vendor discretion and it shall be at Vendor's sole risk to ensure delivery at the designated office. DISTRICT COURT assumes no responsibility for delivery delays regarding any documents relating to this RFP.

1.10 Exceptions to RFP

Vendors should carefully review this RFP and all of its attachments and exhibits. Any Vendor wishing to take exception to any of the contents of this RFP must notify the DISTRICT COURT contacts provided in writing as specified in Section 1.7.

1.11 Amendment to or Cancellation of the RFP

DISTRICT COURT reserves the right to revise the RFP. In the event that DISTRICT COURT revises any part of this RFP, an amendment will be issued and provided to all Vendors who request it. Each Vendor is instructed to disregard any oral representations it may have received. Proposal evaluation will be based on the materials contained in the written RFP and any amendments to the RFP that have been issued.

DISTRICT COURT reserves the right to cancel or to reissue the RFP in whole or in part, prior to the execution of a contract. In the event DISTRICT COURT revises any part of the RFP, an amendment shall be published. If a conflict exists between amendments, the document issued last shall take precedence.

It is the responsibility of each potential Vendor to carefully examine these requirements, terms, and conditions. Should any potential Vendor find discrepancies, omissions, or ambiguities in this RFP, Vendor may request, in writing, an interpretation from DISTRICT COURT. Any inquiries, suggestions, or requests concerning interpretation, clarification, or additional information shall be made to the DISTRICT COURT contacts provided in Section 1.7.

1.12 Proprietary Information and Public Disclosure

Vendors must clearly mark every page of any portion of their proposal that contains proprietary information. A Vendor may not mark the entire proposal as copyrighted, proprietary, or confidential. Any proposal containing language that indicates that the proposal is subject to copyright law protection, declares the entire proposal to be

confidential, or declares that the document is the exclusive property of the Vendor will be disqualified. If DISTRICT COURT receives a request to view or copy the proposal, DISTRICT COURT shall respond according to public disclosure procedures in accordance with applicable court rule and case law. If any information is marked as proprietary or confidential, DISTRICT COURT shall not make that portion available without giving Vendor an opportunity to seek prevention of disclosure.

Materials submitted in response to this procurement shall become property of DISTRICT COURT. All proposals shall remain confidential until a contract is awarded, or a decision is made not to award this RFP. Thereafter, the proposals shall be publicly accessible.

1.13 Copyright Privileges

All rights, title, and interest in any materials developed under the Contract resulting from this RFP process shall be owned by DISTRICT COURT, unless otherwise agreed to in the Contract.

1.14 Receipt of Insufficient Competitive Proposals

If DISTRICT COURT receives only one (1) responsive proposal to this RFP, DISTRICT COURT reserves the right to select and award the contract to the single Vendor.

1.15 Most Favorable Terms

DISTRICT COURT reserves the right to make an award without further discussion of any proposal submitted. Proposals should be submitted initially on the most favorable terms that Vendor can offer. DISTRICT COURT reserves the right to contact a Vendor for clarification of its proposal during the evaluation process.

1.16 No Obligation to Buy

DISTRICT COURT reserves the right to refrain from contracting with any Vendor. Publication of this RFP does not obligate DISTRICT COURT to purchase services or products from any Vendor. DISTRICT COURT reserves the right to reject any or all proposals at any time without penalty or liability.

1.17 Invoices

Vendors selected and subsequently performing services for DISTRICT COURT will provide invoices as defined in the executed Contract.

1.18 Conditional Sales Contract

DISTRICT COURT will not enter into a contract unless the contract can be cancelled for non-allocation of funds by the Thurston County with no penalty to DISTRICT COURT.

1.19 Cost of Preparing Proposals

DISTRICT COURT is not liable for any costs incurred by Vendor in the preparation or submission of a proposal.

1.20 Notification to Unsuccessful Vendors

Vendors whose proposals have not been selected will be notified via e-mail.

2. INSTRUCTIONS

This section establishes the RFP compliance requirements for this acquisition. Vendors must respond and provide detailed information for all items for the proposal to be considered responsive. Provide all information in the same order as specified in this section. Completeness is a priority consideration.

2.1 Proposal Format

Proposals should be prepared simply, providing clear and concise responses. Standard brochures are not to be included in the proposal. Emphasis should be on completeness and clarity of content.

Proposals must be prepared with minimum 11-point font Arial, Calibri, or Times New Roman and printed on single-side, standard 8 ½ x 11-inch paper. Pages must be single spaced with minimum of .75-inch margins with each page numbered on the table of contents.

2.2 Proposal Contents

Proposals received must respond to all requirements of the Attachment B Sample CONTRACT and Exhibit A Statement of Work. The required proposal contents and order of the contents for the proposal shall be as follows.

1. Letter of Submittal / Cover Letter

The letter of submittal must be on official Vendor letterhead and must be signed by a person authorized to bind the Vendor to a Contract. Your letter of submittal must include the following information:

- a. Vendor name.
 - b. Name and title of proposing Vendor authorized representative.
 - c. Address.
 - d. Telephone number.
 - e. Email address.
 - f. Date of Submission.
2. Table of Contents
 3. Proposal Summary and Certifications (Attachment A)
 4. Vendor's Qualifications and Experience
 5. Cost Proposal

Submit a Firm-Fixed Price Quote for all work described in the Attachment B Sample CONTRACT and Exhibit A Statement of Work. Provide supporting documentation for estimated rates and calculations. Describe methods used to calculate estimated rates.

6. Technical Approach

Technical information must include information that demonstrates the Vendor's understanding of the requirements and the capability of the firm to perform the work described in the Attachment B Sample CONTRACT and Exhibit A Statement of Work.

- a. Management Plan/Strategy: Each Vendor shall describe their proposed solution, strategy, quality control, subcontract arrangements where applicable, and interaction with DISTRICT COURT for this effort. Each Vendor shall provide a specific plan that addresses the staffing plan and rationale, and other resources that will be committed.
 - b. Technical Specification Sheets: Provide manufacturers data for the hardware/software provided by the Vendor; explain how products meets or exceeds specification requirements. Show that the solution meets the basis of design intent and standards of practice.
7. Response to Requirements

Responses must mirror requirements provided in Exhibit A Statement of Work, demonstrating an understanding and ability to meet the requirement or by providing a proposed solution.

Vendors must complete a response to all requirements. Proposals may be disqualified for not completing proposal sections. In response to each RFP requirement, each Vendor must clearly state whether or not its proposal meets the requirements by providing a detailed description of the solution and support. Failure to meet an individual requirement may not be the basis for disqualification; however, failure to provide a response may be considered nonresponsive and be the basis for disqualification.

2.3 Authorized Vendor Representative Identification

Provide information regarding Vendor's point of contact for communication relating to this RFP.

1. Authorized Vendor representative name.
2. Title.
3. Address.
4. Telephone number.
5. Email address.

It is Vendor's responsibility to keep this information current during the RFP process and through the term of any Contract resulting from this acquisition.

2.4 Vendor Performance Manager

Vendor shall appoint a performance manager who will provide oversight of Vendor contract activities. Vendor's performance manager will be the principal point of contact regarding Vendor's performance under the Contract. Vendor shall notify DISTRICT COURT contacts provided when there is a change to the Vendor performance manager assigned to the Contract. Provide information regarding the Vendor's performance manager for communications.

1. Vendor performance manager name.
2. Title.
3. Address.
4. Telephone number.
5. Email address.

2.5 Proof of Insurance

Vendors selected and subsequently performing services for DISTRICT COURT will provide proof of insurance as defined in the Sample Contract (Attachment B).

2.6 Certification of Proposal

Each Vendor shall certify its preparation of the proposal and stipulate in writing that its proposal is valid for ninety (90) days after receipt by DISTRICT COURT. This must be signed and dated by a person legally authorized to bind Vendor.

2.7 Use of Subcontractors

Vendor shall be solely responsible for carrying out the requirements of this RFP and any resulting Contract. If Vendor anticipates subcontracting with another Vendor to meet the requirements of this RFP, the subcontractor shall be clearly identified in the proposal and shall be subject to approval by DISTRICT COURT.

2.8 Evaluation and Selection

This section describes the method the DISTRICT COURT will use to evaluate Proposals received in response to this solicitation.

All Proposals will be initially screened for responsiveness and the minimum qualifications outlined in the RFP. Those Proposals that do not clearly meet the minimum qualifications may be considered nonresponsive and may not be further evaluated.

2.9 Evaluation Criteria

The DISTRICT COURT will evaluate and score the Proposals based on the following criteria:

EVALUATION CRITERIA	POINTS
Scope of Work Requirements: Section 1.3	Go/No Go
Vendor's Qualifications and Experience	20
Cost Proposal	20
Technical Approach	25
Requirement Response/Proposal	35
Total	100

Attachment A

Proposal Summary and Certifications

Attachment B

Sample Contract

Professional Services Contract

Thurston County District Court

This Contract is entered into in duplicate originals between the DISTRICT COURT for the County of Thurston, State of Washington, with its principal offices located at 2000 Lakeridge Dr. SW, Bldg. 3, Olympia, WA 98502, hereinafter “DISTRICT COURT”, and, _____ hereinafter “CONTRACTOR”.

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

1. DURATION OF CONTRACT

The term of this contract shall become effective upon the last date of the final signature of both parties, anticipated to take place May 2022. The contract will provide for an initial term to expire 31 December 2023 and provide, at the option of DISTRICT COURT, for additional one (1) year terms upon agreement by contract amendment. All contract terms are dependent upon funding appropriated by Thurston County.

2. SERVICES PROVIDED BY THE CONTRACTOR

The CONTRACTOR represents that it is qualified and possesses the necessary expertise, knowledge, training, and skills, and has the necessary licenses and/or certification to perform the services set forth in this Contract.

- a. The detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, Statement of Work which is attached hereto and incorporated herein by reference.
- b. The CONTRACTOR agrees to provide its own labor, materials, equipment, and the facility as provided for in the Contract.
- c. The CONTRACTOR shall perform the work specified in this contract according to standard industry practice and will meet all requirements outlined in WAC and RCW’s applicable to the administration of substance abuse monitoring devices and urinalysis testing.

3. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

a. For CONTRACTOR:

Name of Representative: _____

Title: _____

Mailing Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

b. For DISTRICT COURT:

Name of Representative: _____

Title: _____

Mailing Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

4. COMPENSATION AND OBLIGATION FOR PAYMENT

- a. For services performed hereunder, the CONTRACTOR shall be paid based upon mutually agreed rates. All rates proposed by the Vendor to support the requirements set forth in the Contract must be detailed and provided to DISTRICT COURT.
- b. The maximum total amount payable by the DISTRICT COURT to the CONTRACTOR under this Contract shall not exceed \$500,000.00 before

December 31, 2023. DISTRICT COURT neither represents nor guarantees any minimum payment to the Vendor.

- c. No payment shall be made for any services rendered by the CONTRACTOR except for those services identified and set forth in this Contract or supporting exhibits or attachments incorporated by reference into this Contract.
- d. The DISTRICT COURT shall not be obligated to reimburse the CONTRACTOR for any services or activities performed prior to having a fully executed copy of this Contract.
- e. The CONTRACTOR shall submit invoices to the DISTRICT COURT not more often than once per month during the progress of the work for payment of work completed to date. Invoices shall cover the time CONTRACTOR performed work for the DISTRICT COURT during the billing period. The DISTRICT COURT shall pay the CONTRACTOR for services rendered in the month following the actual delivery of the work and will remit payment within thirty (30) days from the date of receipt of billing.
- f. The DISTRICT COURT will make payments monthly, upon receipt of a properly submitted invoice from the CONTRACTOR utilizing the Fee Schedule above as well as providing all supporting documentation including:
 - i. Invoice for services provided
 - ii. Reports reflecting all eligible encounter data and validation of such encounter data to DISTRICT COURT.
- g. The DISTRICT COURT shall not pay any claims for payment for services submitted more than 45 days after the calendar month in which the services were performed, unless otherwise specified in this Contract.
- h. The CONTRACTOR shall not be paid for services rendered under the Contract unless and until they have been performed to the satisfaction of the DISTRICT COURT.
- i. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the DISTRICT COURT, then the DISTRICT COURT may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty until such failure to perform is cured or otherwise adjudicated. "Substantial" for purposes of this Contract means faithfully fulfilling the terms of the Contract with variances only for technical or minor omissions or defects.
- j. If the CONTRACTOR claims and the DISTRICT COURT reimburses for expenditures under this Contract which the DISTRICT COURT later finds were (1)

claimed in error, or (2) not allowable costs under the terms of the Contract, the CONTRACTOR shall repay in full within 30 days of notice to repay from the DISTRICT COURT.

5. SERVICE AVAILABILITY

The CONTRACTOR will ensure that all substance abuse monitoring participants who are offered services under this contract have provided a Court Order or voucher from DISTRICT COURT. This will be documented and reported monthly for billing purposes.

6. SAFEGUARDING CONFIDENTIAL INFORMATION

- a. Confidential Information collected, used, or acquired in connection with this Contract shall be used solely for the purposes of this Contract. CONTRACTOR shall not use, publish, transfer, sell or otherwise disclose any confidential information gained by reason of this Contract for any purpose that is not directly connected with the performance of the services, except:
 - i. As provided by law; or,
 - ii. In the case of Personal Information, as provided by law or with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- b. The CONTRACTOR agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access, use, disclosure, modification, or loss of confidential information. This duty requires the CONTRACTOR to employ reasonable security measures, which includes restricting access to the confidential information by: (1) allowing access only to staff that have an authorized business requirement to view the confidential information; and (2) physically securing any computers, documents, or other media containing the confidential information. The DISTRICT COURT reserves the right to monitor, audit, or investigate the use of confidential information collected, used, or acquired by the CONTRACTOR through this Contract. To the extent allowed by law, the CONTRACTOR shall certify the return or destruction of all confidential information upon expiration of this Contract.
- c. The CONTRACTOR shall report to the DISTRICT COURT, either orally or in writing, any data compromise involving confidential information collected, used, or acquired in connection with this Contract, or circumstances that could have resulted in unauthorized access to or disclosure or use of confidential information, including any reasonable belief that an unauthorized individual has accessed confidential information, immediately upon discovery, but in no event more than one business day after CONTRACTOR discovered the issue. Oral reports by CONTRACTOR will be reduced to writing and supplied to the DISTRICT COURT as soon as reasonably

practicable, but in no event more than forty-eight (48) hours after the oral report.

- d. Any breach of this Section may result in termination of the Contract and the demand for return of all records in connection with this Contract. The CONTRACTOR agrees to indemnify and hold harmless the DISTRICT COURT for any damages related to the CONTRACTOR'S unauthorized use or disclosure of confidential information.
- e. The provisions of this Section shall be included in any CONTRACTOR'S subcontract(s) relating to the services provide under this Contract.
- f. Paper documents with confidential information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing confidential information requiring special handling (e.g., protected health information) must be destroyed through shredding, pulping, or incineration.
- g. "Confidential Information" means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
- h. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver's license numbers, other identifying numbers, and any financial identifiers. Personal Information includes "Protected Health Information" as set forth in 45 CFR §160.103 as currently drafted and subsequently amended or revised and other information that may be exempt from disclosure to the public or other unauthorized persons under either Chapter 42.56 RCW, 42 USC §§1320 et seq., 42 CFR Part 2, Chapters 70.02, 70.24, 70.96A and 71.05 RCW or other state and federal statutes and regulations governing confidentiality or disclosure.

7. AMENDMENTS AND CHANGES IN WORK

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the DISTRICT COURT.
- b. No amendment, modification, or renewal shall be made to this Contract unless

set forth in a written Contract Amendment, signed by both parties and attached to this Contract. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the DISTRICT COURT. The parties may, if mutually agreeable, renew this contract on an annual basis. Such renewal, if exercised will be memorialized in a written Contract Amendment.

8. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the DISTRICT COURT, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, losses, expenses, damages, and judgments of any nature whatsoever, including costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors or omissions or the acts, errors or omissions of its employees, agents, subcontractors or anyone for whose acts any of them may be liable, in the performance of this Contract. Claims shall include, but not be limited to, assertions that information supplied or used by the CONTRACTOR or subcontractor infringes any patent, copyright, trademark, trade name, or otherwise results in an unfair trade practice. PROVIDED HOWEVER, that the CONTRACTOR'S obligations hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents. PROVIDED FURTHER, that in the event of the concurrent negligence of the parties, the CONTRACTOR'S obligations hereunder shall apply only to the percentage of fault attributable to the CONTRACTOR, its employees, agents, or subcontractors.
- b. In any and all claims against the DISTRICT COURT, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Worker's Compensation acts, disability benefits acts, or other employee benefits acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under Title 51 RCW. By executing the Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

9. INSURANCE

- a. **Professional Legal Liability:** The CONTRACTOR, if he is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than \$_____ per loss.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract.

- b. **Workers' Compensation (Industrial Insurance):** The CONTRACTOR shall maintain workers' compensation insurance as required by Title 51 RCW and shall provide evidence of coverage to the Thurston County Risk Management Division.

The CONTRACTOR shall send to Thurston County at the end of each quarter written verification that premium has been paid to the Washington State Department of Labor and Industries for Industrial Insurance coverage. Alternatively, the CONTRACTOR shall provide certification of approval by the Washington State Department of Labor and Industries if self-insured for Workers Compensation.

- c. **Commercial General Liability:** The CONTRACTOR shall maintain Commercial General Liability coverage for bodily injury, personal injury, and property damage, subject to limits of not less than \$_____ per loss. The general aggregate limit shall apply separately to this Contract and be no less than \$_____.

- i. The CONTRACTOR shall provide Commercial General Liability coverage which does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the CONTRACTOR will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard Commercial General Liability policy, including contractual liability coverage.
- ii. The CONTRACTOR'S Commercial General Liability insurance shall include the DISTRICT COURT, its officers, officials, employees and agents as additional insureds with respect to performance of services, and shall contain no special limitations on the scope of protection afforded to the DISTRICT COURT as additional insured.
- iii. The CONTRACTOR shall furnish the DISTRICT COURT with evidence that the additional insured provision required above has been met. An acceptable

form of evidence is the endorsement pages of the policy showing the DISTRICT COURT as an additional insured.

- iv. If the CONTRACTOR'S liability coverage is written as a claims made policy, then the CONTRACTOR must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after project completion, or otherwise maintain the coverage for the three-year period.
 - v. If the Contract is over \$50,000 then the CONTRACTOR shall also maintain Employers Liability Coverage with a limit of not less than \$1 million.
- d. **Automobile Liability:** The CONTRACTOR shall maintain Business Automobile Liability insurance with a limit of not less than \$_____ each accident combined Bodily Injury and Property Damages. Coverage shall include owned, hired, and non-owned automobiles.
- e. **Other Insurance Provisions:**
- i. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the DISTRICT COURT, its elected and appointed officers, officials, employees, and agents.
 - ii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the DISTRICT COURT, its officers, officials, employees, or agents.
 - iii. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - iv. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
 - v. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
 - vi. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced.
- f. **Verification of Coverage and Acceptability of Insurers:** The CONTRACTOR shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that

excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.

- i. Certificates of Insurance shall show the Certificate Holder as Thurston County and include c/o of the Office or Department issuing the Contract. The address of the Certificate Holder shall be shown as the current address of the Office or Department.
- ii. Written notice of cancellation or change shall be mailed to the COUNTY at the following address:

Attn: Risk Analyst
Human Resources
2000 Lakeridge Drive S.W.
Olympia, Washington 98502

- iii. The CONTRACTOR shall furnish the DISTRICT COURT with properly executed certificates of insurance or a signed policy endorsement which shall clearly evidence all insurance required in this section prior to commencement of services. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract will not be canceled or allowed to expire except on thirty (30) days prior written notice to the DISTRICT COURT.
- iv. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Thurston County Risk Management Division.

10. FAILURE TO COMPLY WITH CONTRACT REQUIREMENTS

- a. If the CONTRACTOR fails to comply with the terms and conditions of this Contract, the DISTRICT COURT may pursue such remedies as is legally available including, but not limited to, termination of this Contract in the manner specified herein.
- b. If the DISTRICT COURT determines that the CONTRACTOR has failed to comply with any of its contractual obligations, the DISTRICT COURT will notify the CONTRACTOR in writing of the specific actions which must be taken by the CONTRACTOR to achieve compliance within thirty (30) calendar days or such shorter time as the DISTRICT COURT determines based on the circumstances. The DISTRICT COURT will offer technical assistance to develop and implement corrective action plan, offering any specific feedback necessary for making corrections. If the CONTRACTOR fails to comply with the contractual

obligations in accordance with the notice from the DISTRICT COURT, then the DISTRICT COURT may, in its sole discretion, upon written notice to the CONTRACTOR, withhold payment, reduce or eliminate funding available to the CONTRACTOR.

- c. At the end of the compliance period, the DISTRICT COURT will re-evaluate for compliance and the CONTRACTOR will be notified in writing whether they are in compliance, whether further compliance actions are required, or whether the DISTRICT COURT will elect other remedies, including termination.

11. TERMINATION

- a. The DISTRICT COURT may terminate this Contract for convenience in whole or in part whenever the DISTRICT COURT determines, in its sole discretion that such termination is in the best interests of the DISTRICT COURT. The DISTRICT COURT may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the DISTRICT COURT shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice.
- b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the DISTRICT COURT may summarily terminate this Contract notwithstanding any other termination provision of the Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by the DISTRICT COURT to the CONTRACTOR.
- c. This Contract may be terminated in whole or in part by the mutual agreement of the parties. Such termination shall be in writing, signed by both parties and shall include the conditions for termination, the effective date, and the portion to be terminated.

12. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

- a. The CONTRACTOR shall perform the terms of the Contract using only its bona fide employees or agents who have the qualifications to perform under this Contract. The obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the DISTRICT COURT.
- b. The CONTRACTOR shall be responsible for its subcontractors' compliance with all requirements of this Contract and applicable laws. In the event of non-compliance by a subcontractor, the DISTRICT COURT may terminate this CONTRACT in whole or in part.

- c. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

13. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

14. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an Independent Contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and the CONTRACTOR is not entitled to any County benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to Thurston County employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent or representative of the COUNTY.
- d. The CONTRACTOR shall assume full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of this Contract be enacted as to all persons employed by the CONTRACTOR and as to all duties, activities and requirements by the CONTRACTOR in performance of the work on this project and under this Contract and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations.

- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

15. COMPLIANCE WITH LAWS

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

16. MAINTENANCE OF RECORDS

The CONTRACTOR agrees to establish and maintain all books, records, documents, reports, and other evidence of accounting procedures and practices which accurately reflect all direct and indirect costs related to the performance of this Contract.

The CONTRACTOR shall maintain records to document performance of all acts required by law, regulation, and this Contract.

The CONTRACTOR agrees to retain all documents and records relating to this Contract for six (6) years after the expiration or termination date of this Contract. In the event of litigation, unresolved audits and/or unresolved claims, the CONTRACTOR agrees to retain all records, reports, and other documentation until all such litigation, claims, and audits have been resolved.

The DISTRICT COURT may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The DISTRICT COURT reserves the right to perform a fiscal review during the period of this Contract, and/or a closeout review at the completion of this Contract.

17. NONDISCRIMINATION

The CONTRACTOR, its assignees, delegates, or subcontractors shall not discriminate against any person in employment or in the performance of any of its obligations hereunder on the basis of race, color, creed, ethnicity, religion, national origin, age, sex, marital status, veteran or military status, sexual orientation, or the presence of any disability. Implementation of this provision shall be consistent with RCW 49.60.400.

18. OWNERSHIP OF MATERIALS AND WORK PRODUCED

- a. Material produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be

owned by DISTRICT COURT. This material includes, but is not limited to, books, computer programs, plans, specifications, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes, and/or training materials. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The DISTRICT COURT agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless therefore to the extent such use is agreed to in writing by the CONTRACTOR.

- b. An electronic copy of all or a portion of material produced shall be submitted to the DISTRICT COURT upon request or at the end of the job using the word processing program and version specified by the DISTRICT COURT.

19. DEBARMENT AND SUSPENSION

The CONTRACTOR certifies that neither it nor its principals are not presently suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with a federal government, or from receiving contracts paid for with federal funds.

The CONTRACTOR has not within a 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. The CONTRACTOR is not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated above; and has not within a 3-year period preceding this Contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

If the CONTRACTOR is found to be disbarred or suspended or otherwise excluded from or ineligible for participation in any Federal program at any time during the Contract period, immediate termination of this Contract may result.

20. DISPUTES

Differences between the CONTRACTOR and the DISTRICT COURT, arising under and by virtue of this Contract, shall be brought to the attention of the DISTRICT COURT at the earliest possible time in order that such matters may be settled or other appropriate

action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due by the CONTRACTOR shall be decided by the DISTRICT COURT'S Contract representative or designee. All rulings, orders, instructions, and decisions of the DISTRICT COURT'S Contract representative shall be final and conclusive, subject to the CONTRACTOR'S right to seek judicial relief pursuant to Section 19.

21. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

22. SEVERABILITY

- a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- b. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.
- c. Should the DISTRICT COURT determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the DISTRICT COURT may, in its sole discretion, terminate this Contract.

23. Entire Agreement

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

24. Notices

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 3. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective upon receipt during working hours. If a facsimile is sent after working hours, it shall be effective at the beginning of the next working day.

By their signatures below, the parties agree to the terms and conditions of this Professional Services Contract and all documents incorporated by reference. No other understandings or representations, oral or otherwise, regarding the subject matter of this Professional Services Contract shall be deemed to exist or bind the parties. The parties signing below certify that they are authorized to sign this Professional Services Contract and acknowledge that the waiver of immunity set out in Section 8.b. was mutually negotiated and specifically agreed to by the parties herein.

CONTRATOR:

DISTRICT COURT, Thurston County

Organization: _____

Name (printed): _____

Name (printed): _____

Title: _____

Title: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

DEPUTY PROSECUTING ATTORNEY,
Thurston County

Approved as to Form: Jon Tunheim

Name (printed): _____

Signature: _____

Date: _____

Exhibit A

Statement of Work

Exhibit A

Professional Services Contract
Thurston County District Court / _____

SCOPE OF SERVICES

The services to be performed by the CONTRACTOR under this Contract, which are described in Section 2 of the Contract (Services Provided by the Contractor), are set forth as follows:

- 1) Provide technical support for transdermal blood alcohol monitoring devices (BAMD) and urinalysis (UA) testing services.
- 2) Observe collection of urine samples for toxicology services for all participants identified by order of the Court.
- 3) Provide appropriate gender staff for observed collection of urine samples and maintain chain of custody requirements.
- 4) Perform installation of BAMD for participants determined as qualified by order of the Court.
- 5) Furnish all labor and hardware/software required to install approved BAMD and appropriately monitor participants and conduct UA testing as determined by order of the Court.
- 6) All BAMD devices must be maintained, tested, and approved for use by the Vendor, remaining compliant with all standards of practice and applicable laws.
- 7) Provide detailed rates proposed to support the requirements set forth in the Contract. Rate proposals must include BAMD and UA services. Rates will be determined upon mutual agreement by CONTRACTOR and DISTRICT COURT.
- 8) Record services provided through Vendor software and provide to DISTRICT COURT.
- 9) DISTRICT COURT must be invoiced on a monthly basis, on the month in which the tests were conducted.
- 10) Monthly billing summaries must be sent to DISTRICT COURT for review. Both the monthly bills and the billing summaries must be able to be sent in both electronic and hard copy forms.

- 11) Must have ability to send documentation electronically in a secured format.
- 12) Provide detailed reports for BAMD and UA testing services.
- 13) Maintain an electronic record capable of encounter data and delivery of batch files for the purpose of billing and reporting.
- 14) Ensure ability to submit encounter data in batch form to DISTRICT COURT for authorization, utilization review, planning and quality management of services.
- 15) Must have ability to provide detailed reports to DISTRICT COURT including but not limited to: case and participant information, service provided, dates and date ranges of services conducted, number of participants served for dates and date ranges for each service provided.
- 16) Must provide the DISTRICT COURT with access to a secured, paperless system that is HIPAA compliant, for all reporting. This may include but is not limited to: 24-hour access to screening and confirmation reports (results for most screens provided within 24 hours of specimen receipt, confirmation reports within 48 hours or 2 business days after initial screen results); printable test results; compliance scores and report.
- 17) Must provide administrative reports to DISTRICT COURT as requested. These reports must be specific, easy to read, and able to be provided in both electronic and hard copy forms.
- 18) Must ensure flexibility and timeliness in providing report formats and content consistent with DISTRICT COURT's requirements, which may vary over time.
- 19) Vendor and DISTRICT COURT will continue work on recording and reporting measures to support the program goals.
- 20) Must offer morning, day, and evening services. Service times proposed to support the requirements of the Contract must be provided.
- 21) Services shall be provided at a location within Thurston County, at a minimum.
- 22) Track and monitor individual authorizations for services and communicate those authorizations to participants to inform them of funding services for the monitoring programs.
- 23) Must conduct an initial screen on all collected urine specimens. All specimens screened positive must automatically be confirmed to produce quantitative results.

- 24) Provide a menu of drug test panels that are able to be ordered on an as needed basis. These tests will detect the presence and quantity of substances (analytes) at cut-off concentration levels specified.
- 25) Must provide drug panel screening tests. Confirmation will automatically follow positive screen results for all relevant substances.
- 26) Must enable the DISTRICT COURT to add additional substances to any of the screening panels upon agreement.
- 27) Must provide “confirmation only” tests for any of the substances.
- 28) Must provide all necessary supplies for sample collection and transportation, which are unique to the service provided.
- 29) Urine specimens which have been confirmed positive will be frozen and retained for a period of not less than six months after results have been reported to DISTRICT COURT. At DISTRICT COURT’s written request, individual samples will be kept frozen and stored until final disposition of any court action.
- 30) Must submit compliance reports for the install, removal, alcohol use, and non-compliance of BAMD conditions.
- 31) Must submit compliance reports for all UA testing to include positive, negative, or no-test results.
- 32) Must submit compliance reports to DISTRICT COURT within 24-hours of determination.
- 33) Must have staff available by phone or email for questions related to, but not limited to: monitoring devices, test ordering, specimen collection, testing methods, interpreting compliance results, reporting, billing.
- 34) Must ensure DISTRICT COURT has access to a UA designee/professional by telephone, Skype, Zoom, Microsoft Teams or email, to address problems or concerns regarding test results or interpretation of results as well as procedures used in determining results.
- 35) Must ensure DISTRICT COURT has access to BAMD designee/professional by telephone, Skype, Zoom, Microsoft Teams or email, to address problems or concerns regarding the monitoring devices or interpretation of compliance as well as procedures used in determining results.

Exhibit B

Special Terms and Conditions

Exhibit B

Special Terms and Conditions

1. COMPLIANCE WITH FEDERAL REGULATIONS

The CONTRACTOR and its consultants and SUBCONTRACTORS shall comply with the following federal laws and regulations, whenever and wherever they are applicable. The CONTRACTOR and its consultants and SUBCONTRACTORS shall timely obtain all permits and approvals necessary to lawfully implement the project. The CONTRACTORS and its SUBCONTRACTORS and consultants shall include in all contracts, subcontracts, and purchase orders for this project the following list of laws and regulations and shall require compliance with such laws and requirements:

- i. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) relating to non-discrimination in performance of the project and to the benefits.
- ii. Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended.
- iii. Executive Order 11246 dealing with non-discrimination in employment as amended by Executive Orders 11375.
- iv. The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.
- v. The relationship contemplated by this Contract may implicate the Privacy Regulations under the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, 110 Stat. 1936 (1996) (HIPAA). The CONTRACTOR shall comply with HIPAA and applicable regulations contained in 45 CFR parts 160 and 164. The CONTRACTOR shall enter into a Business Associate Addendum with the COUNTY if the COUNTY determines that the SUBRICIPIENT will be acting as Business Associate as defined under HIPAA.

During the performance of this AGREEMENT, the CONTRACTOR agrees as follows:

- i. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- ii. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants

will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- iii. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONTRACTOR's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv. The CONTRACTOR will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- v. The CONTRACTOR will furnish all information and reports, required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for the purpose of investigation to ascertain compliance with such rules, regulations, and orders.
- vi. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this AGREEMENT or with any of such rules, regulations, or orders, this AGREEMENT may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- vii. The CONTRACTOR will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each SUBCONTRACTOR or Vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or threatened with litigation with a SUBCONTRACTOR or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.

2. NON-DISCRIMINATION CLAUSE

During the performance of this AGREEMENT, the CONTRACTOR agrees as follows:

- i. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- ii. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- iii. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iv. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- v. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- vi. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vii. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- viii. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- ix. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

3. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT – 2 C.F.R. Part 200, Appendix II(G); 42 U.S.C. §§ 7401-7671q.; 33 U.S.C. §§ 1251-1387

- i. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- ii. The CONTRACTOR agrees to report each violation to Thurston County and understands and agrees that Thurston County will, in turn, report each violation as

required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- iii. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal funds.

4. FEDERAL WATER POLLUTION CONTROL ACT

- i. The CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- ii. The CONTRACTOR agrees to report each violation to Thurston County and understands and agrees that Thurston County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- iii. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal funds.

5. CONFLICT OF INTEREST AND CODE OF CONDUCT

- i. The CONTRACTOR covenants that no person who presently exercises any functions or responsibilities in connection with the Coronavirus Relief Fund (CRF) Program has any personal financial interest, direct or indirect, in this AGREEMENT. The CONTRACTOR further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The CONTRACTOR further covenants that in the performance of this AGREEMENT, no person having any conflicting interest will be employed. Any interest on the part of the CONTRACTOR or its employees must be disclosed to the COUNTY.
- ii. No officer, employee or agent of the CONTRACTOR shall participate in the selection, award, or administration of activity funded in whole or in part with CRF funds if a conflict of interest, real or apparent, would exist, nor shall their families, or those with whom they have business ties, so benefit.
- iii. In addition to the above, no official, employee, or agent of any federal, state, or local government for the area in which the project is located, nor members of their families, nor those with whom they have business ties, have or acquire any interest, direct or indirect, in any contract or subcontract or its proceeds for work accomplished in support of this AGREEMENT, nor shall they have or acquire any interest, direct or indirect, in the project area which would conflict in any manner or degree with the project.

6. DEBARMENT OF CONTRACTORS

The CONTRACTOR shall assure that, its officers, agents, SUBCONTRACTORS, and consultants shall not fund, contract with, or engage the services of any consultant, SUBCONTRACTOR, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds.

The CONTRACTOR certifies that the CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the AGREEMENT by any federal department or agency. If requested by the COUNTY, the CONTRACTOR shall complete a Certification Debarment, Suspension, Ineligibility, and Voluntary Exclusion form.

7. LOBBYING AND LITIGATION

- A. Contractor agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. Contractor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.
- B. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.
- C. All contracts awarded by Contractor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at Title 40 CFR Part 30.
- D. Pursuant to Section 18 of the Lobbying Disclosure Act, Contractor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- E. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

8. CERTIFICATION REGARDING LOBBYING

By signing this agreement, CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- A. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all CONTRACTORS shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name (print): _____

Title: _____

Signature: _____

Date: _____