

# **THURSTON COUNTY, WASHINGTON**

## **Inmate Anger Management Domestic Violence And Female Offender Services**

### **REQUEST FOR PROPOSAL**

**August 4, 2020**

**2000 LAKERIDGE DRIVE SW  
OLYMPIA, WA 98502**

## PROJECT OVERVIEW

### 1.0 Purpose of RFP

This Request for Proposal (RFP) announces the intent of Thurston County to consider proposals for the provision of in-house inmate Inmate Anger Management, Domestic Violence and Female Offender Services.

### 1.1 Location of the Corrections facility

The Thurston County Corrections Facility is located at 3491 Ferguson Street SW, Tumwater, Washington 98512.

### 1.2 Facility Configuration

The Corrections Facility currently consists of one main complex and one Correctional Options Annex with a combined average daily population of 413. The total bed capacity is 395, thus overcrowding can be an issue and the county currently contracts with other facilities to house prisoner overflow. The Corrections facility houses male and female minimum, medium and maximum-security inmates.

The average daily population for 2019 was 406 which includes:

General Population	325.0
Work Release	58.8
Contract Housing	11.7
Electronic Monitoring	9.1
Day Jail	-
Day Reporting	1.6

### 1.3 Program Objectives

#### Domestic Violence and Anger Management Therapy

Provide anger management and domestic violence therapy to both male and female inmates in separate groups.

Hold two hour sessions once weekly for each group.

Groups will consist of 12-week cycles.

Groups will consist of no more than twelve and no less than two participants at any session.

Treatment program will contain components of the following:

- Cycle of Violence
- Understanding and Dealing with Anger
- Accepting Responsibility for Abuse Towards Others
- The effects of domestic violence/anger on children
- Stress Management
- Identifying Underlying Feelings
- Assertive Communications Skills
- Cognitive Distortions
- Boundaries

Chemical Abuse/Dependency  
Self Care  
Timeouts

Domestic Violence Assessments/Diversion services

Provide assessment of incarcerated eligible offenders in accordance with RCW 26.50.150 and WAC 388.60.

Utilization of a lethality risk

A complete diagnostic evaluation

Substance Abuse Assessment

A treatment plan that appropriately addresses the treatment needs of the individual.

Provide community based domestic violence services for those offenders released into the community under the supervision of the Sheriff's Office.

Female Offender Program

Provide instruction to female inmates.

Hold a two and half-hour session once per week.

Groups will consist of approximately fifteen participants per session. Instruction program will consist of the following:

Chemical dependency

Life skills

Community resource availability

Self-awareness

Self-definition

**1.3.1 Hours of Service**

Monday through Friday variable hours in the 8:00 a.m. to 10:00 p.m. time frame.

**1.3.2 Location of Classes**

The location of classes for Domestic Violence/Anger Management therapy and the Female Offender program will take place at the Thurston County Corrections facility located at 3491 Ferguson Street SW, Tumwater, Washington 98512. Domestic Violence/Diversion services for released offenders or offenders on a Correctional Options Program will take place at the Contractor's office.

**1.4 Issuing Office**

Thurston County Sheriff's Office, Corrections Facility  
2000 Lakeridge Drive SW  
Olympia, WA. 98502  
Phone (360) 709-5939

**1.5 County Contact**

The County contact person to send proposals, procedural questions and copies of protests is:

Stephanie Klein  
Lieutenant  
Thurston County Sheriff's Office  
Corrections Facility  
2000 Lakeridge Drive SW

Olympia, WA 98502  
Phone: (360) 709-5939  
Fax: (360) 357-2480

The County contact person for questions on functional requirements or other technical information is:

Stephanie Klein  
Lieutenant  
Thurston County Sheriff's Office  
Corrections Facility  
2000 Lakeridge Drive SW  
Olympia, Washington 98502  
Phone: (360) 709-5939  
Fax: (360) 357-2480

#### **1.6 Proposal Submissions and Delivery to the County**

An original and four (4) exact duplicate copies of the proposal must be submitted in a sealed envelope no later than 1:00 p.m. on September 2, 2020. No telegraphic, telephone, or facsimile proposals will be accepted. If mailed, the Responder should use receipted mail. All envelopes or packages shall be clearly marked on the outside with Responder's company name and "Inmate Anger Management, Domestic Violence and Female Offender Services". Proposals submitted under improperly marked covers may be rejected.

Proposal must be limited to less than 10 pages and all areas of the RFP must be acknowledged and/or answered.

Mail proposals to:

Stephanie Klein  
Lieutenant  
Thurston County Corrections Facility  
2000 Lakeridge Drive SW  
Olympia, Washington 98502

#### **1.7 Withdrawal, Resubmission, or Modification of Proposals**

A Responder may withdraw the Responder's final proposal any time prior to 1:00 pm on September 2, 2020, by submitting a written request for its withdrawal to the county contact. The Responder may thereafter submit a new or modified proposal prior to 1:00 pm on September 2, 2020. Modification offered in any other manner, oral or written, will not be considered.

#### **1.8 Responder Representative's Signature**

The proposal shall be signed by an individual who is authorized to bind the responding firm contractually. The signature must indicate the title or position that the individual holds in the company. Company's who sign their contracts with the name of the firm must provide the name of a corporate officer for signature validation by the County.

A proposal may be signed by an agent of the Responder only if he/she is an officer of a corporation the Responder has authorized to sign contracts on its behalf, a member of a partnership company, or is properly authorized by a power of attorney or equivalent document

submitted to the County prior to the submission of proposals or with the proposal. The name and title of the individual signing the proposal must be typed immediately below the signature. Any unsigned proposal will be rejected.

**1.9 Contract Period**

The contract period is January 1, 2021 through December 31, 2021. The County reserves the right to extend the contract for (4) one-year terms.

**1.10 Proposal Opening**

Proposal Opening will occur in the Thurston County Sheriff’s Office, Corrections Facility on September 3, 2020, at approximately 9:00 a.m. At the time of opening, only the names of those who submitted proposals will be made public information. No pricing or staffing information will be released until after the award is made.

**1.11 Schedule of Events**

<b>Event</b>	<b>Date</b>
Distribution of RFP	August 5, 2020
Proposal Due	September 2, 2020 1:00pm
Contract Commencement	January 1, 2021 or as soon thereafter as possible

**1.12 Selection of Service Provider and Negotiation of Terms**

Pursuant to the County’s Purchasing Policy the County reserves the right to select the service provider by a process of discussions and negotiations with any or all qualified Responders. Alterations by negotiation in the nature of a proposal and in prices/rates may be made after proposals are opened.

**1.13 Delays**

The County reserves the right to delay the scheduled due dates and start dates if it is to the advantage of the County. There shall be no additional costs assessed by Responders do to these delays should any occur.

**1.14 Accuracy Disclaimer**

Information and data provided throughout this RFP are believed to be reasonably accurate. The Responder shall thoroughly acquaint themselves with the proposed project and all State Statutes, and regulations relating to the execution of the proposal. The Responder will not be allowed additional compensation for their failure to be informed.

**1.15 Cost Liability**

The County assumes no responsibility and no liability for costs incurred by Responders for preparing proposals. All proposals shall provide a straight forward, concise delineation of the Responder’s capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

## **RULES AND FORMAT**

### **2.0 Evaluation**

An evaluation team will evaluate each proposal. Thurston County will be the sole judge with respect to evaluation of the proposals. When the Evaluation Team has completed its deliberations, it may then engage in the selection process referenced in Section 1.12. At the conclusion of this phase, the County may make its award of contract to the successful Responder, which will be subject to the finalization of an agreement. The evaluation will consist of the following categories:

- a. Domestic Violence Treatment Program experience, particularly jail experience,
- b. Recruitment and Screening plan for staff,
- c. References of organization,
- d. Quality Improvement and Utilization management programs, and
- e. Cost Proposal

### **2.1 Rejection of Proposals**

The County reserves the right to reject any or all proposals including any proposal that is materially incomplete or irregular.

### **2.2 Term of the Proposed Contract**

The contract resulting from this Request for Proposal shall begin January 1, 2021 and continue through December 31, 2021. The contract may be extended for (4) one-year terms. See proposed sample contract starting on page 13.

### **2.3 Format for Proposal**

Each responder must respond to each and every component outlined in this RFP using the format prescribed for each component to be considered responsive. A proposal that fails to follow this format or that takes exceptions or is incomplete or conditional may be rejected.

## **COMPANY PROFILE**

### **3.0 Organization**

Specify the date the Responder became a DSHS certified Domestic Violence treatment provider. Include a copy of your most recent certification certificate. Also include when the Responder began providing services in or out of correctional facilities. Provide a brief history of the organization, management structure, and current services provided, target populations served, and any other relevant information pertinent to demonstrating the firm's capability.

### **3.1 Experience**

Specify experience in providing domestic violence treatment. Include in your discussion:

- a. Number of employees employed by the corporation,
- b. Annualized dollars of payroll, and
- c. Number of years in business.

### **3.2 Current Contracts**

Describe current contracts and include the following information:

- a. Client name, address, and telephone number,
- b. Date of original contract and expiration date,
- c. Number of renewals (if applicable),
- d. Type and size of facility, and

e. Dollar amount of contract.

**3.3 Malpractice and Litigation History**

Provide a list of all litigation the Corporation has been or is currently involved in during the last three years. Include a narrative describing all cases that were settled and amounts of settlement.

**3.4 Prior Performance Fines and Penalties**

Provide a listing of fines incurred under contracts in other jurisdictions for non-performance of duties in whole or in part, which exceed \$10,000 for the past three years. List all contracts in which you experienced a loss of funds due to delays, damages, liquidated damages, and or forfeiture of performance bond in whole or in part.

**3.5 Contractual Experience**

List all contracts lost, or not renewed (list contact person and telephone number), for a three-year period. Provide a narrative describing reason for contracts that have not been renewed. Specify any contracts from which the Responder was relieved or any contracts that have been canceled prematurely.

**3.6 Corporate Reorganization**

Discuss any corporate reorganization or restructuring that has occurred within the last three years and discuss how the restructuring will impact upon the firm's ability to provide services proposed. Responder shall disclose the existence of any related entities (sharing corporate structure) or principal officers doing business in the field of domestic violence treatment.

**3.7 Merger or Acquisition**

The Responder is required to notify the County of any potential for merger or acquisition of which there is knowledge at the time that the proposal is submitted.

**3.8 Contractual Obligations**

Describe other current or anticipated contractual obligations that have been awarded which will coincide with the terms of this contract.

**3.9 Organizational Structure**

Provide an organizational chart delineating corporate office organizational structure.

**3.10 Financial Statements**

Provide financial statements for a two-year period. If the Responder is a solely owned subsidiary of another company or corporation, and does not possess financial statements, un-audited financial statements for the subsidiary for a two-year period must be submitted as supplemental information to the company's financial statements in order to meet this requirement. Audited financial statements shall be submitted to the County annually during the term of this Contract.

**3.11 References**

Submit the names, business address, telephone and fax numbers of at least five individuals and/or organizations that can attest to the Responder's capability to carry out the requirements set forth in this offer.

The Responder is cautioned that it is the Responder's sole responsibility to submit information related to the evaluation categories. Failure of the Responder to submit such information may cause and adverse impact on the Responder's proposal.

Thurston County reserves the right to conduct an extensive background check and consider historic information and facts gained from the Responder's proposal, oral presentation, references or other objective data, in the evaluation process.

## **SCOPE OF SERVICES**

### **4.0 Statement of Work**

The Responder will provide Domestic Violence Treatment, education, individual and group therapy using Moral Reconciliation Therapy (MRT™) to incarcerated adults housed in the Thurston County Corrections Facility. Responder will also provide Female Offender services addressing basic life skills, self-awareness and definition to adult females housed in the Thurston County Corrections Facility.

### **4.1 Institutional Responsibilities**

The County will provide the Responder with classroom space, access to copier, black board, workbooks, other writing material, inmate supervision and staff oversight.

### **4.2 Service Records**

The relationship contemplated by this RFP and associated contract requires compliance with the Privacy Regulations under the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, 110 Stat. 1936 (1996) (HIPAA). Both the OFFICE / DEPARTMENT and the BOCC shall comply with HIPAA and applicable state privacy regulations contained in [Chapter 70.02 RCW](#) and shall require both parties enter into a Business Associate Agreement.

### **4.3 Definitions**

*“Individually Identifiable Health Information”* means information that is a subset of health information, including demographic information collected from an individual, and: (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual, and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

*“Protected Health Information”* means any Individually Identifiable Health Information in any form, including electronic, written and oral protected under HIPAA.

### **4.4 Safeguarding Protected Health Information**

The OFFICE / DEPARTMENT program staff, treatment staff, and subcontracted staff will use commercially reasonable efforts to appropriately protect the confidentiality, integrity, and availability of physical and electronic records containing protected health information it creates, receives, maintains, or transmits, and to prevent unauthorized use and/or disclosure of such protected health information, including, but not limited to the following:

1. Administrative safeguards, in compliance with [45 CFR §164.308](#), by implementing policies and procedures to prevent, detect, contain, and correct security violations. Unauthorized personnel must not have access to records containing protected health information. Physical

and electronic access, such as usernames/passwords and physical keys, respectively, must be managed accordingly.

2. Physical safeguards, in compliance with [45 CFR §164.310](#), by implementing policies and procedures to limit physical access to records and the facility or facilities in which they are housed, while ensuring that properly authorized access is allowed. Any records containing protected health information must be stored in locked cabinets whenever unattended or when any unauthorized personnel could view protected health information while in the same area.
3. Technical safeguards, in compliance with [45 CFR §164.312](#), by implementing technical policies and procedures for electronic information systems that maintain electronic protected health information to allow access only to authorized entities. All electronic records containing protected health information must be password-protected.

#### **4.5 Reporting Inappropriate Use or Disclosure**

Within twenty-four (24) hours of the discovery of any use and/or disclosure of protected health information that is not permitted or required by this MOU, the OFFICE / DEPARTMENT shall telephone the TST Program Manager and the Thurston County Risk Manager and provide a written report of the unauthorized use and/or disclosure within five (5) business days.

### **ADMINISTRATIVE COMPONENTS**

#### **5.0 Credentialing**

Therapy to be provided by Master Level Therapists certified in domestic violence or bachelor's level therapist with equivalent experience and certified in both domestic violence/chemical dependency treatments.

The therapist's credentials will be acceptable to Thurston County Courts and the Thurston County Sexual Assault/domestic violence Task Force and follow state certification guidelines for domestic violence.

All providers must supply proof of current Washington State professional license.

Proof of compliance with all applicable state laws for the operations of a business, including an account with the Department of Revenue and unified business identifier.

#### **5.1 Statistical Data**

The Responder shall describe its management information system. The Responder shall be required to keep statistical data related to the inmate Domestic Violence Program, which shall include utilization of service statistics and other areas that the Responder and County agree would be useful to evaluate the program and anticipate future needs. The Responder shall prepare statistical reports on a monthly basis. The Responder shall provide a narrative monthly report delineating the status of the program, which also identifies potential problems and discusses their resolution. A complete annual report of utilization statistics and narrative summary delineating accomplishments of the Responder shall also be provided on an annual basis. The Responder shall submit a copy of relevant MIS or statistical forms with its proposal.

## **STAFFING**

### **6.0 Recruitment and Credentialing Program**

The Responder shall recruit and interview candidates who are certified in the State of Washington as a Domestic Violence Treatment Professional. The Responder shall interview each candidate with a special focus on technical expertise, emotional stability and motivation. The final selection of all employees or subcontractors shall be subject of approval by the Chief Deputy of Corrections.

- a) Initial and continued employment of staff and subcontractors shall be subject to approval of the County. The County reserves the right to prohibit any of the Responder's employees and/or independent contractors from performing service with regard to this contract.
- b) All personnel shall be required to pass records check conducted by the County for initial and or continued employment. Additionally, all personnel performing on-site services may be required to undergo a urinalysis or blood test if there is reason to believe that they are under the influence of alcohol or other substances of abuse.
- c) All personnel shall comply with current and future state, federal and local directives and policies and procedures of the County and the facility.
- d) Files of all subcontractors and contract employees shall be on file at the facility. These files shall include copies of the Thurston County Corrections Facility entrance application, copy of current Washington driver's license and signed liability waiver form.
- e) The Responder shall provide the names of corporate or regional management personnel assigned to this contract. A resume of the regional manager shall be included with this proposal. Any replacement personnel shall be subject to approval of the County.
- f) The Responder shall notify the Chief Deputy of Corrections prior to discharging, removing or failing to renew contracts of professional staff.
- g) The Responder is prohibited from entering into covenants Not To Compete or Non-Competition Clauses with either employees or independent contractors or any party specifically related to the performance of any obligation required under this agreement, which would prohibit said independent contractor or employee from competing, directly or indirectly, in any way with the Responder. For the purpose of this paragraph, the term competing directly or indirectly, in any way with the Responder shall mean the entering into or attempting to enter into any similar business with that carried on by the Responder with any individual, partnership, corporation or association that was or is in the same or related business as the Responder.

### **6.1 Employee Training and Orientation**

The Responder shall describe its orientation program for its staff. The Responder shall be responsible for ensuring that all new personnel are provided with orientation and appropriate training regarding practices on-site at the facility. An outline of the orientation and in-service program shall be submitted with the proposal. Orientation regarding other facility operations will be the responsibility of the facility and the County.

The Responder shall send its staff to a security orientation program provided by the County. The Responder shall be responsible for payment of staff while attending the security classes.

The Responder shall provide appropriate monthly in-service education programs for its staff. Selected topics, which require staff training, will be identified on an on-going basis throughout the Responder's continuous Quality Improvement Program.

## **6.2 Staffing and Schedules**

All hours shall be spent on-site at the facility, except as is otherwise expressly agreed to by Chief Deputy of Corrections and the Responder. Program staffing work schedules may be modified upon the parties' mutual agreement and written consent.

## **6.3 Staffing absences**

The Responder shall specify how they intend to cover periods of absences caused by vacations, holidays and sick leave and shall state what relief factor, if any, was computed into their staffing ratio. The Responder should state whether positions in their proposal are to be covered by full or part time personnel.

## **6.4 Credits to County**

The Responder shall agree to credit the County a credit consisting of an hourly salary and fringe benefits for hours of each position not covered or vacant for fifteen (15) days or more. Adjustments will be made on a quarterly basis.

## **6.5 Security Clearance**

The Responder and its personnel shall be subject to and shall comply with all security regulations and procedures of the County and the facility. Violations of regulations may result in the employee being denied access to the facility. In this event, the Responder shall provide alternate personnel to supply services, described herein, subject to the County's approval.

The County shall provide security for the Responder's employees and agents consistent with security provided to other County employees.

## **TRANSITION**

### **7.0 Contract Transition**

The Responder must demonstrate how it would make the transition from the current service delivery system into the County's delivery system. The timetable for transition is 30 days. Extensions for start-up will not be given. The transition plan should address an orderly and efficient start-up. The Responder should emphasize their past experience in implementing contracts and successes in this area.

A detailed plan should be submitted with the proposal that addresses at a minimum how the following issues will be handled and transferred:

- a. Recruitment of staff
- b. Subcontractors and specialists
- d. Program supplies
- e. Equipment and inventory
- g. Record management
- h. Orientation of new staff

The Responder should include personnel that will be assigned to supervise and monitor the transition from the County run system to the Responder's system, which should include timetables for completion.

## **8.0 Cost Proposal**

Provide a detailed listing of all other contract costs for the program to include but not limited to staffing, materials, workbooks, etc.

Responder will be paid on a monthly basis after services have been delivered. Adjustments for staffing will be made on a quarterly basis.

Responder should include an annual cost of the contract and an inflationary formula, which does not exceed 3%.

Provide alternate pricing due to program or staffing changes.

PROFESSIONAL SERVICES CONTRACT  
(INVOLVING PROTECTED HEALTH INFORMATION)  
THURSTON COUNTY/\_\_\_\_\_.

**THIS CONTRACT** is entered into in duplicate originals between **THURSTON COUNTY**, a municipal corporation, with its principal offices at 2000 Lakeridge Drive S.W., Olympia, Washington 98502, hereinafter "**COUNTY**," and \_\_\_\_\_, with its principal offices at \_\_\_\_\_, 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 begin on the date last executed below and shall terminate on \_\_\_\_\_.

**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.

The CONTRACTOR shall perform the following services:

\_\_\_\_\_

a. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor, or facilities will be furnished by the COUNTY.

c. The CONTRACTOR shall perform according to standard industry practice of the work specified by this Contract.

d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed to by the parties.

e. The CONTRACTOR shall, from time to time, during the progress of the work, confer with the COUNTY. At the COUNTY'S request, the CONTRACTOR shall prepare and present status reports on its work.

**3. SERVICES PROVIDED BY THE COUNTY**

In order to assist the CONTRACTOR in fulfilling its duties under this Contract, the COUNTY shall provide the following:

a. Relevant information as exists to assist the CONTRACTOR with the performance of the CONTRACTOR'S services.

b. Coordination with other County Departments or other Consultants as necessary for the performance of the CONTRACTOR'S services.

c. Services documents, or other information identified in Exhibit A.

**4. CONTRACT REPRESENTATIVES**

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

Name of Representative: \_\_\_\_\_

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

Mailing Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**5. COMPENSATION**

a. For the services performed hereunder, the CONTRACTOR shall be paid based upon mutually agreed rates contained in Exhibit B, which is attached hereto and incorporated herein by reference. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$\_\_\_\_\_.

b. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract or supporting exhibits or attachments incorporated by reference into this Contract.

c. The CONTRACTOR may, in accordance with Exhibit B, submit invoices to the COUNTY not more often than once per month during the progress of the work for partial payment of work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY 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.

d. The CONTRACTOR shall not be paid for services rendered under the CONTRACT unless and until they have been performed to the satisfaction of the COUNTY.

e. 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 COUNTY, then the COUNTY 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.

f. Unless otherwise provided for in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for payment prior to the execution of the Contract or after its termination.

## **6. SAFEGUARDING PERSONAL INFORMATION**

a. Personal information collected, used or acquired in connection with this Contract shall be used solely for the purposes of this Contract. The CONTRACTOR agrees not to release, divulge, publish, transfer, sell or otherwise make known personal information without the express written consent of the entity or as provided by law.

b. The CONTRACTOR agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information. The COUNTY reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the CONTRACTOR through this Contract. To the extent required by law, the CONTRACTOR shall certify the return or destruction of all personal information upon expiration of this Contract.

c. 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 COUNTY for any damages related to the CONTRACTOR'S unauthorized use or disclosure of personal information.

d. The provisions of this Section shall be included in any CONTRACTOR'S subcontract(s) relating to the services provide under this Contract.

e. "Personal Information" shall mean 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 Chapters 42.56, 70.02, 70.24, 70.96A and 71.05, 42 CFR Part 2, and other federal and state 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 COUNTY.

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 COUNTY.

## **8. HOLD HARMLESS AND INDEMNIFICATION**

a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, 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 COUNTY, 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.

c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

## **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 COUNTY, 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 COUNTY as additional insured.
- iii. The CONTRACTOR shall furnish the COUNTY 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 COUNTY 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 COUNTY, 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 COUNTY, 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 COUNTY with properly executed certificated 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 COUNTY.
- 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. **TERMINATION**

a. The COUNTY may terminate this Contract for convenience in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by Certified Mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 5 of this Contract.

b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY 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 COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract are allowable.

c. If the CONTRACTOR breaches any of its obligations hereunder and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with Section 5 of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach. If, subsequent to termination, it is determined for any reason that (1) the CONTRACTOR was not in default, or (2) the CONTRACTOR'S failure to perform was not its fault or its subcontractor's fault or negligence, the termination shall be deemed to be a termination under subsection a of this section.

## 11. **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 COUNTY.

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

## 12. **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.

## 13. **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.

#### **14. COMPLIANCE WITH LAWS**

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

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 CONTRACTOR will be acting as Business Associate as defined under HIPAA.

#### **15. INSPECTION OF BOOKS AND RECORDS**

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

#### **16. NONDISCRIMINATION**

The CONTRACTOR, its assignees, delegatees or subcontractors shall not discriminate against any person 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.

#### **17. OWNERSHIP OF MATERIALS/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 the COUNTY. 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 COUNTY 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 COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

## 18. **DISPUTES**

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to the CONTRACTOR'S right to seek judicial relief pursuant to Section 19.

## 19. **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.

## 20. **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 COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

## 21. **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.

22. **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 4. 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.

**The parties hereto acknowledge that the waiver of immunity set out in Section 8.b. was mutually negotiated and specifically agreed to by the parties herein.**

CONTRACTOR: \_\_\_\_\_ Thurston County, Washington

Firm: \_\_\_\_\_ By: \_\_\_\_\_

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

Signature: \_\_\_\_\_, Department  
(Authorized Representative)

Date \_\_\_\_\_ Date \_\_\_\_\_

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

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

**Approved as to Form by the Prosecuting Attorney's Office**  
Reviewed 1/5/05

EXHIBIT A

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/\_\_\_\_\_

**SCOPE OF SERVICES**

1. 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:

2. The services to be performed by the COUNTY under this Contract, which are described in Section 3 of the Contract (SERVICES PROVIDED BY THE COUNTY) are set forth as follows (if applicable):

EXHIBIT B

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/\_\_\_\_\_

**COMPENSATION**

1. The CONTRACTOR'S compensation under this Contract, which is described in Section 5 of the Contract (COMPENSATION), is set forth as follows:

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**BUSINESS ASSOCIATE AGREEMENT  
ADDENDUM**

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20      **THIS BUSINESS ASSOCIATE AGREEMENT** (the "Addendum") is effective this            day of  
         (the "Effective Date") between Thurston County ("Covered Entity"), and            ("Business Associate").

**RECITALS**

**WHEREAS**, Covered Entity and Business Associate are parties entering into a            dated            and incorporated herein by reference (the "Underlying Agreement") pursuant to which Business Associate will and such services involve the use and disclosure of Individually Identifiable Health Information that is subject to protection under HIPAA and the HIPAA Rules (all as hereinafter defined); and

**WHEREAS**, Business Associate has created and maintains security safeguards for the protection from unlawful disclosure of Protected Health Information (as hereinafter defined); and

**WHEREAS**, Covered Entity and Business Associate desire compliance with the Standards for Privacy of Individually Identifiable Health Information set forth under the HIPAA and the HIPAA Privacy Rule;

**NOW, THEREFORE**, for and in consideration of the recitals above and the mutual covenants and conditions herein contained, Covered Entity and Business Associate enter into the following Addendum to provide a full statement of their respective responsibilities as more fully described below:

**ARTICLE 1  
DEFINITIONS**

**Definitions.** Unless otherwise provided herein terms used shall have the same meaning as set forth in HIPAA and the HIPAA Rules.

- 1.1      **"Addendum"** means this Business Associate Agreement Addendum.
- 1.2      **"Business Associate"** as used in this Addendum means the Business Associate named in this Addendum and generally has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. Any reference to Business Associate in this Addendum includes Business Associate's employees, agents, officers, subcontractors, volunteers, or directors.
- 1.3      **"C.F.R."** means and refers to the Code of Federal Regulations.
- 1.4      **"Covered Entity"** means Thurston County, a Covered Entity as defined at 45 C.F.R. § 160.103, in its conduct of covered functions by its health care components.
- 1.5      **"Designated Record Set"** means a group of records maintained by or for a Covered Entity that is: the medical records and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used, in whole or in part, by or for the Covered Entity to make decisions about Individuals.
- 1.6      **"Electronic Protected Health Information" or "EPHI"** means Protected Health Information that is transmitted by electronic media or maintained in electronic media.
- 1.7      **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as Title XIII of The American Recovery and Reinvestment Act of 2009, H.R. 1, Pub.L. 111-5

(February 17, 2009), as amended or superseded, and any current and future regulations promulgated under HIPAA.

- 1.8** **“HIPAA Rules”** means the Privacy, Security, Enforcement, and Breach Notification Rules at 45 C.F.R. Part 160 and Part 164, in effect or as amended.
- 1.9** **“Individual”** means the person who is the subject of Protected Health Information and includes a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.10** **“Material Alteration”** means any addition, deletion or change to the PHI of any subject other than the addition of indexing, coding and other administrative identifiers for the purpose of facilitating the identification or processing of such information.
- 1.11** **“Privacy Rule”** means the Privacy Standards at 45 C.F.R. Part 164, Subpart E, in effect or as amended.
- 1.12** **“Protected Health Information” or “PHI”** means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the Covered Entity that relates to the provision of health care to an Individual; the past, present, or future physical or mental health or condition of an Individual; or the past, present, or future payment for provision of health care to an Individual. 45 C.F.R. § 160.103. PHI includes demographic information that identifies the Individual or about which there is reasonable basis to believe can be used to identify the Individual. 45 C.F.R. § 160.103. PHI is information transmitted or held in any form or medium and includes Electronic Protected Health Information. 45 C.F.R. § 160.103. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USCA 1232g (a)(4)(B)(iv) or employment records held by a Covered Entity in its role as employer.
- 1.13** **“Security Rule”** means the Security Standards at 45 C.F.R. Part 164, Subparts A and C, in effect or as amended.
- 1.14** **“Subcontractor”** as used in this Addendum means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.
- 1.15** **“Underlying Agreement”** means \_\_\_\_\_ and all accompanying documents.

## **ARTICLE 2**

### **SCOPE OF USE OF PHI**

- 2.1** **Services.** Except as otherwise specified herein, the Business Associate may use PHI solely to perform its duties as set forth in the Underlying Agreement. Except as otherwise limited in this Addendum, Business Associate may use and disclose PHI for the proper management and administration of the Business Associate, to carry out the legal responsibilities of the Business Associate and to provide any data aggregation services pursuant to the Underlying Agreement.
- 2.1.1** Business Associate may disclose PHI for the purposes pursuant to the Underlying Agreement only to its employees, subcontractors and agents, in accordance with Section 2.3.4 as directed by the Covered Entity.
- 2.1.2** Except as otherwise limited in this Addendum, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that such disclosures are required by law or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that the PHI will remain confidential and used or further disclosed only as required by law or for the purpose for which the PHI was disclosed to the person, the person implements reasonable and appropriate security measures to protect the PHI, and the person notifies the Business Associate of any instances of which it is aware where the confidentiality of the PHI has been breached.

**2.2 Breach or Misuse of PHI.** Business Associate recognizes that any breach of confidentiality or misuse of information found in and/or obtained from records may result in the termination of the Underlying Agreement and this Addendum and/or legal action. Unauthorized disclosure of PHI may give rise to irreparable injury to the Individual or to the owner of such information, and the Individual or owner of such information may seek legal remedies against Business Associate.

**2.3 Responsibilities of Business Associate.** With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

**2.3.1** Use and/or disclose PHI only as permitted or required by this Addendum, HIPAA and HIPAA Rules, or as otherwise permitted or required by law. Business Associate agrees that it will not use or disclose PHI in any manner that violates federal law, including but not limited to HIPAA and any regulations enacted pursuant to its provisions, or applicable provisions of Washington State law. The Business Associate agrees that it is subject to and directly responsible for full compliance with the Privacy Rule that applies to the Business Associate to the same extent as the Covered Entity.

**2.3.2** Use commercially reasonable efforts to maintain the security of the PHI and to prevent unauthorized use and/or disclosure of such PHI, including, but not limited to the following:

Any files on location at the agency must be kept in locked cabinets. Any client information transported must be kept from unauthorized access at all times.

In addition, the Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity in accordance with 45 C.F.R. Part 164, subpart C for as long as the PHI is within its possession and control, even after the termination or expiration of this Addendum. The Business Associate agrees that it is subject to and directly responsible for full compliance with the HIPAA Security Rule that applies to Business Associates, including sections 164.308, 164.310, 164.312, and 164.316 of title 45 C.F.R., to the same extent as the Covered Entity.

**2.3.3** Business Associate shall apply the HIPAA Minimum Necessary standard to any use or disclosure of PHI necessary to achieve the purposes of the Underlying Agreement. See 45 C.F.R. 164.514(d)(2) through (d)(5).

**2.3.4** Require all of its employees, representatives, subcontractors and agents that create, receive, maintain, or transmit PHI or use or have access to PHI under the Underlying Agreement to agree in writing to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply herein, including the obligation to return or destroy the PHI if feasible, as provided under Sections 5.4 and 5.5 of this Addendum.

**2.3.5** Promptly report to the designated privacy officer of the Covered Entity, any use and/or disclosure of the PHI that is not permitted or required by this Addendum by telephoning the privacy officer within twenty-four (24) hours of becoming aware of it, and providing a written report of the unauthorized disclosure within five (5) business days.

The name and contact information for the Covered Entity's privacy officer is as follows:

Contact Officer: Tammy Devlin  
Telephone: (360) 786-5498  
E-mail: [tammy.devlin@co.thurston.wa.us](mailto:tammy.devlin@co.thurston.wa.us)

Address: 929 Lakeridge Drive SW, Building 4, Room 202  
Olympia, WA 98502

**2.3.6** Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum or the law.

**2.3.7** Within twenty-four (24) hours of the discovery of a breach as defined at 45 C.F.R. § 164.402 notify the Covered Entity's privacy officer of any breach of unsecured PHI and take actions as may be necessary to identify, mitigate and remediate the cause of the breach. A breach shall be treated as discovered by the Business Associate in accordance with the terms of 45 C.F.R. § 164.410. The notification shall include the following information which shall be updated promptly and provided to the Covered Entity as requested by the Covered Entity:

**a.** the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been accessed, acquired, used, or disclosed during such breach;

**b.** a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;

**c.** a description of the types of unsecured PHI that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

**d.** any steps individuals should take to protect themselves from potential harm resulting from the breach;

**e.** a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches;

**f.** contact procedures of the Business Associate for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address; and

**g.** any other information required to be provided to the individual by the Covered Entity pursuant to 45 C.F.R. § 164.404, as amended.

To the extent the Covered Entity deems warranted, the Covered Entity may provide notice or may require Business Associate to provide notice at Business Associate's expense to any or all individuals whose unsecured PHI has been or is reasonably believed by the Business Associate to have been, accessed, acquired, used, or disclosed as a result of such breach. In such case, the Business Associate shall consult with the Covered Entity regarding appropriate steps required to notify third parties. The Business Associate shall reimburse the Covered Entity, without limitation, for all costs of investigation, dispute resolution, notification of individuals, the media, and the government, and expenses incurred in responding to any audits or other investigation relating to or arising out of a breach of unsecured PHI by the Business Associate.

**2.4** **Covered Entity Obligations.** With regard to the use and/or disclosure of PHI by the Business Associate, the Covered Entity hereby agrees to:

**2.4.1** Provide the Business Associate a copy of the notice of privacy practices that the Covered Entity provides to Individuals pursuant to 45 C.F.R. § 164.520 by attaching it to this Addendum (Attachment A), and inform the Business Associate of any changes in the form of the notice;

**2.4.2** Inform the Business Associate of any changes in, or withdrawal of, the authorization provided to the Covered Entity by Individuals whose PHI may be used and/or disclosed by Business Associate under the Underlying Agreement pursuant to 45 C.F.R. § 164.508; and

**2.4.3** Notify the Business Associate, in writing and in a timely manner, of any restrictions on the use and/or disclosure of PHI agreed to by the Covered Entity in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

### **ARTICLE 3 AMENDMENT OF PHI**

**3.1** **Amendments by Business Associate.** Should Business Associate make any Material Alteration to PHI, Business Associate shall provide Covered Entity with notice of each Material Alteration to any PHI and shall promptly cooperate with Covered Entity in responding to any request made by any subject of such information to Covered Entity to inspect and/or copy such information. Business Associate shall not deny Covered Entity access to any such information if, in Covered Entity's sole discretion, such information must be made available to the subject seeking access to it. To the extent that Business Associate maintains PHI in a Designated Record Set, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 within twenty (20) days of the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

**3.2** **Amendments Requested by Covered Entity.** Business Associate shall promptly incorporate all amendments or corrections to PHI when notified by Covered Entity that such information is inaccurate or incomplete.

### **ARTICLE 4 AVAILABILITY, ACCOUNTING OF DISCLOSURES, AUDITS AND INSPECTIONS**

**4.1** **Availability of PHI.** To the extent Business Associate maintains PHI in a Designated Record Set, Business Associate agrees to make PHI available to Covered Entity or, as directed by Covered Entity, to an Individual, within twenty (20) days of the request of the Covered Entity and in the manner designated by Covered Entity in accordance with 45 C.F.R. § 164.524.

**4.2** **Accounting of Disclosures.** Business Associate agrees to make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528. Business Associate will provide such accounting of disclosures to Covered Entity as soon as possible, but at least twenty (20) days from request by Covered Entity. Each accounting shall provide (i) the date of each disclosure; (ii) the name and address of the organization or person who received the PHI; (iii) a brief description of the PHI disclosed; and (iv) the purpose for which the PHI was disclosed, including the basis for such disclosure, or a copy of a written request for disclosure under §§ 164.502(a)(2)(ii) or 164.512. Business Associate shall maintain a process to provide the accounting of disclosures for as long as Business Associate maintains PHI received from or on behalf of Covered Entity.

**4.3** **Access to Department of Health and Human Services.** Business Associate shall make its facilities, internal practices, books, records, documents, electronic data and all other business information relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of Health and Human Services, governmental officers and agencies within five (5) business days of written request by the Covered Entity for the purpose of determining compliance with HIPAA .

- 4.4 **Access to Covered Entity.** Upon written request, Business Associate agrees to make its facilities, internal practices, books, records, documents, electronic data and all other business information available to Covered Entity within five (5) business days during normal business hours so that Covered Entity can monitor compliance with this Addendum.

## ARTICLE 5 TERM AND TERMINATION

- 5.1 **Term.** This Addendum is valid as of the Effective Date and remains effective for the entire term of the Underlying Agreement, or until terminated as set forth herein.
- 5.2 **Termination.** This Addendum may be terminated by Covered Entity for convenience upon the same number of days prior written notice to the Business Associate as set out in the Underlying Agreement, otherwise upon thirty (30) days prior written notice. The notice will specify the date of termination.
- 5.3 **Termination for Cause.** Covered Entity may immediately terminate this Addendum and the Underlying Agreement without penalty if Covered Entity, in its sole discretion, determines that Business Associate has: (a) improperly used or disclosed PHI in breach of this Addendum; or (b) violated a material provision of this Addendum. Alternatively, the Covered Entity may choose to provide the Business Associate with written notice of the existence of an alleged material breach and a period of fifteen (15) days in which to cure the alleged material breach upon mutually agreeable terms. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of this Addendum and the Underlying Agreement.
- 5.4 **Alternative to Termination.** If termination is not feasible, the Covered Entity shall report the breach to the Secretary of the Department of Health and Human Services.
- 5.5 **Return/Destruction of PHI.** Business Associate agrees that, upon termination of the Underlying Agreement, for whatever reason, it will return or destroy all PHI, if feasible, received from, or created or received by it on behalf of Covered Entity which Business Associate maintains in any form, and retain no copies of such information. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. An authorized representative of Business Associate shall certify in writing to Covered Entity, within five (5) days from the date of termination or other expiration of the Underlying Agreement, that all PHI has been returned or disposed of as provided above and that Business Associate no longer retains any such PHI in any form.
- 5.6 **No Feasible Return/Destruction of PHI.** If the return or destruction of PHI is not feasible, Business Associate shall notify Covered Entity of the conditions that make return or destruction infeasible. To the extent that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this Addendum to the PHI retained and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. Business Associate shall remain bound by the provisions of this Addendum notwithstanding termination of the Underlying Agreement, until such time as all PHI has been returned or otherwise destroyed as provided in this section.

## ARTICLE 6 INDEMNIFICATION/INSURANCE

- 6.1 **Defense and Indemnification.** Business Associate shall defend, indemnify and hold Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards or other expenses, of any kind or nature whatsoever, including, without limitation attorney's fees, expert witness fees, and costs of investigation, litigation, or dispute resolution, relating to or arising out of any breach of this Addendum by Business Associate, its employees, officers, agents, or subcontractors.

**6.1.1 Disclaimer.** Covered Entity makes no warranty or representation that compliance by Business Associate with the Addendum or HIPAA or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes or that any information in the possession of Business Associate or Business Associate's control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure; nor shall Covered Entity be liable to Business Associate for any claim, loss or damage relating to the unauthorized use or disclosure of any information received by Business Associate from Covered Entity or from any other source. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

**6.2 Insurance.** If Covered Entity requires, Business Associate shall obtain and maintain insurance coverage against improper uses and disclosures of PHI by Business Associate naming Covered Entity as an additional named insured. Promptly following a request by Covered Entity for the maintenance of such insurance coverage, Business Associate shall provide a certificate evidencing such insurance coverage.

## **ARTICLE 7 MISCELLANEOUS**

**7.1 Construction.** This Addendum shall be construed as broadly as necessary to implement and comply with HIPAA and the HIPAA Rules. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules.

**7.2 Notice.** All notices and other communications required or permitted pursuant to this Addendum shall be in writing, addressed to the party at the address set forth in the Underlying Agreement, or to such other address as either party may designate from time to time. All notices and other communications shall be mailed by registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or telegram. All notices shall be effective as of the date of delivery of personal notice or on the date of receipt, whichever is applicable.

**7.3 Modification of Addendum.** The parties agree to take such action as is necessary to modify this Addendum to ensure consistency with amendments to and changes in the applicable federal and state laws and regulations, including, but not limited to, HIPAA and the HIPAA Rules. This Addendum shall not be waived or altered, in whole or in part, except in writing signed by the parties.

**7.4 Invalid Terms.** In the event that any provision of the terms and conditions are held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Addendum will remain in full force and effect.

**7.5 Transferability.** Covered Entity has entered into this Addendum in specific reliance on the expertise and qualifications of Business Associate. Consequently, Business Associate's interest under this Addendum may not be transferred or assigned or assumed by any other person, in whole or part, without the prior written consent of Covered Entity.

**7.6 Governing Law and Venue.** This Addendum shall be governed by and interpreted in accordance with the laws of the State of Washington in accordance with HIPAA and the HIPAA Rules without giving effect to the conflict of laws provisions. Thurston County, Washington, shall be the sole and exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought under, or arise out of, this Addendum.

**7.7 No Third Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor anything herein shall confer, upon any person other than the parties hereto any rights, remedies, obligations or liabilities whatsoever.

- 7.8 **Binding Effect.** This Addendum shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns.
- 7.9 **Execution.** This Addendum may be executed in multiple counterparts, each of which shall constitute an original, all of which shall constitute but one agreement.
- 7.10 **Gender and Number.** The use of the masculine, feminine or neuter genders, and the use of the singular and plural, shall not be given an effect of any exclusion or limitation herein. The use of the word "person" or "party" shall mean and include any individual, trust, corporation, partnership or other entity.
- 7.11 **Priority of Agreements.** If any portion of the Addendum is inconsistent with the terms of the Underlying Agreement, the terms of this Addendum shall prevail. Except as set forth above, the remaining provisions of the Underlying Agreement are ratified in their entirety.
- 7.12 **Survival.** The obligations of Business Associate shall survive the termination of this Addendum and the Underlying Agreement.
- 7.13 **Recitals.** The preamble to this Addendum is not a mere recital of facts but consists of binding agreed upon statements that form the basis of this Addendum.

IN WITNESS WHEREOF, the parties hereto have signed this Addendum effective the day and year first above written.

<b>BUSINESS ASSOCIATE:</b>	<b>COVERED ENTITY: THURSTON COUNTY</b>
<hr/> <i>Signature (Authorized Representative)</i>	<hr/> <i>Signature</i>
<hr/> <i>Printed Name</i>	<hr/> <i>Printed Name</i>
<hr/> <i>Title</i>	<hr/> <i>Title</i>
<hr/> <i>Date</i>	<hr/> <i>Date</i>

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**ATTACHMENT A  
NOTICE OF PRIVACY PRACTICES**

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**This notice describes how medical information about you may be used and disclosed and how you can get access to this information. PLEASE REVIEW IT CAREFULLY.**

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**OUR LEGAL DUTY**

**Thurston County is required by law to maintain the privacy of your protected health information.** We are also required to give you this Notice about our privacy practices, our legal duties, and your rights concerning your protected health information. We are required to notify you following a breach of your unsecured protected health information. We must follow the privacy practices that are described in this Notice currently in effect.

**Before we make a significant change in our privacy practices, we will change this Notice and make the new Notice available upon request.** We reserve the right to change our privacy practices and the terms of this Notice at any time. Changes will be available from the County office that provides your service. Any changes in our privacy practices and the new terms of our Notice will be effective for all protected health information that we maintain, including protected health information we created or received before we made the changes.

**You may request a copy of our Notice at any time.** For more information about our privacy practices, or for additional copies of this Notice, please contact us using the information listed at the end of this Notice.

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**USES AND DISCLOSURES OF HEALTH INFORMATION**

The following categories describe the ways that we may use and disclose your health information:

**For treatment:** We may use or disclose your health information to a physician or other healthcare provider providing treatment to you. For example, if we refer you to a physician for a service that we cannot provide, your health information will be disclosed to that office.

**For payment:** We may use and disclose your health information to obtain payment for services we provide to you or to coordinate your medical benefits. For example, if an insurance company pays for your service, it may be necessary to disclose your health information to that company.

**For healthcare operations:** We may use and disclose your health information in connection with our healthcare operations. Healthcare operations include quality assessment and improvement activities, reviewing the competence or qualifications of healthcare professionals, evaluating practitioner and provider performance, conducting training programs, accreditation, certification, licensing or credentialing activities.

**To provide appointment reminders:** We may disclose limited health information to provide you with appointment reminders such as voicemail messages, postcards, or letters.

**To persons involved in your care:** We may use or disclose health information to notify or assist in the notification of a family member or personal representative of your location, your general condition, or death. If you are present, then we will provide you with an opportunity to object to such uses or disclosures before they are made. In the event of your incapacity or emergency circumstances, we may disclose information that is directly relevant to the person's involvement in your healthcare, if we determine that it is in your best interest to do so.

**As required by law:** We may disclose your health information when we are required to do so by federal, state or local law.

**Business Associates:** We may disclose health information to third party "business associates" who perform various activities involving your health information (e.g., claims payment or case management services) for the County. The County will implement written contracts to ensure the business associates will appropriately safeguard the information and to limit the use or disclosure of health information.

**For public health activities:** We may use and disclose medical information about you for public health activities, including to report births and deaths, and notify appropriate authorities if we reasonably believe that you are a possible victim of abuse, neglect, or domestic violence or other crimes.

**For public safety:** We may disclose your health information to the extent necessary to avert a serious threat to your health or safety or the health or safety of others.

**For health oversight activities:** We may disclose health information to a health oversight agency for activities authorized by law.

**For judicial and administrative proceedings:** We may disclose health information about you in response to a court or administrative order. We may disclose health information in response to a subpoena, discovery request, or other lawful process, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

**For law enforcement purposes:** We may disclose health information to law enforcement officials when certain conditions are met.

**To coroners, medical examiners and funeral directors:** We may disclose health information to coroners, medical examiners and funeral directors as authorized by law.

**For workers' compensation:** We may release health information about you for workers' compensation or similar programs.

**For national security and similar government functions:** We may disclose to military authorities the health information of Armed Forces personnel under certain circumstances. We may disclose to authorized federal officials, health information required for lawful intelligence, counterintelligence, and other national security activities.

**To correctional institutions or law enforcement officials:** If you are an inmate of a correctional institution or under custody of a law enforcement official, we may disclose information about you to the institution or official under certain circumstances.

**For organ and tissue donation:** If you are an organ donor, we may release health information to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank as necessary.

**Research:** We may disclose information to researchers when their research has been approved by an Institutional Review Board that has reviewed the research protocol and determined that adequate safeguards exist to ensure the privacy of your health information.

**With your authorization:** Other uses and disclosures of health information not covered by this notice or the laws that apply to us will be made only with your written authorization. Unless otherwise allowed by law, your written authorization is required before use or disclosure of psychotherapy notes or use or disclosure of protected health information for marketing purposes or disclosure for the sale of health information. (Thurston County does not market or sell health information in any event.) If you give us an authorization, you may revoke it in writing at any time. Your revocation will not affect any use or disclosures permitted by your authorization while it was in effect.

**Specially Protected Types of Health Information:** Some types of health information have greater protection under Washington State or federal laws. When required by law we will obtain your authorization before releasing HIV-related and sexually transmitted disease information that is protected by Washington State laws; alcohol and substance abuse treatment information that is protected under both Washington State and federal laws; and mental health treatment information that is protected under both Washington State and federal laws.

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## **YOUR RIGHTS**

**Access:** You have the right to look at and get copies of your protected health information, with limited exceptions. You may make your request for access to your medical records orally or in writing by using forms we provide or sending us a letter to the address at the end of this Notice. If you request copies, we will charge you \$0.50 for each page plus postage if you want the copies mailed to you. We may deny your request in certain very limited circumstances. If you are denied access to your protected health information, you may request that the denial be reviewed. Another licensed health care professional not directly involved in the decision to deny your request will review your request and the denial. We will abide by the outcome of the review.

**Disclosure accounting:** You have the right to receive a list of disclosures we or our business associates made of your protected health information for purposes other than treatment, payment, healthcare operations and certain other activities for a period of time up to six years prior to the date of the accounting request, but not including dates before April 14, 2003. You must make this request in writing to our Contact Officer. If you request this accounting more than once in a 12-month period, we may charge you a reasonable, cost-based fee for providing the list.

**Request restrictions:** You have the right to request that we restrict how we use or disclose your protected health information for treatment, payment, or health care operations or the disclosures we make to someone who is involved in your care or the payment for your care, such as a family member, other relative, or friend. We are not required to agree to your request, unless you are asking us to restrict the use and disclosure of your protected health information to a health plan for payment or health care operations and the information you seek to restrict pertains solely to a health care item or service for which you have paid the health care provider out-of-pocket in full.

**Confidential communication:** You have the right to request that we communicate with you about your protected health information by alternative means or at alternative locations. You must make your request in writing to the Contact Officer and may use forms we provide. Your request must specify the alternative means or location and provide satisfactory explanation of how payments will be handled under the alternative means or location you request.

**Amendment:** You have the right to request that we amend your protected health information. Your request must be in writing, and it must give a reason for your request. We may deny your request if you ask us to amend information that was not created by us, is not part of the information kept by the County, is not part of the information you would be permitted to inspect and copy or is accurate and complete. Any denial will be in writing and state the reason for the denial.

**Paper Copy:** You have the right to get a paper copy of this Notice if you request it, even if you have agreed to receive the Notice electronically.

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## QUESTIONS AND COMPLAINTS

If you want more information about our privacy practices or have questions or concerns, please contact us.

If you are concerned that we may have violated your privacy rights or if you disagree with a decision we made about use or disclosure of your protected health information, you may complain to us using the contact information listed here. You also may submit a written complaint with the Secretary of the U.S. Department of Health and Human Services. You will not be retaliated against for filing a complaint.

**Contact Officer:** Tammy Devlin  
**Telephone:** (360)786-5498  
**E-mail:** [Tammy.devlin@co.thurston.wa.us](mailto:Tammy.devlin@co.thurston.wa.us)  
**Address:** 929 Lakeridge Drive SW, Building 4, Room 202  
Olympia, WA 98502