

	CLIENT SERVICES CONTRACT for PATH Services and Activities	HCA Contract Number: K4827
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THIS CONTRACT is made by and between Washington State Health Care Authority, (HCA) and North Sound BHASO, (Contractor).

CONTRACTOR NAME North Sound BHASO		CONTRACTOR DOING BUSINESS AS (DBA) Whatcom Compass	
CONTRACTOR ADDRESS Street 301 Valley Mall Way, Suite #110	City Mount Vernon	State WA	Zip Code 98273-5462
CONTRACTOR CONTACT Joe Valentine	CONTRACTOR TELEPHONE 360-416-7013	CONTRACTOR E-MAIL ADDRESS joe_valentine@nsbhaso.org	
Is Contractor a Subrecipient under this Contract? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CFDA NUMBER(S): 93.150	FFATA Form Required <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

HCA PROGRAM Recovery Support Services	HCA DIVISION/SECTION Division of Behavioral Health and Recovery
HCA CONTACT NAME AND TITLE Lisa Bennett-Perry, HCA Contract Manager Supportive Housing and Supported Employment Administrator	HCA CONTACT ADDRESS Health Care Authority 626 8th Avenue SE P.O. Box 42730 Olympia, WA 98504-2730
HCA CONTACT TELEPHONE (360) 725-1961	HCA CONTACT E-MAIL ADDRESS lisa.bennett-perry@hca.wa.gov

CONTRACT START DATE October 1, 2020	CONTRACT END DATE September 30, 2021	TOTAL MAXIMUM CONTRACT AMOUNT \$51,761
PURPOSE OF CONTRACT: To conduct PATH projects that will accommodate the local needs and circumstances of PATH Eligible individuals.		

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on HCA only upon signature by HCA.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE Joe Valentine, Executive Director	DATE SIGNED
HCA SIGNATURE	PRINTED NAME AND TITLE Rachelle Amerine Contracts Administrator	DATE SIGNED

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Exhibits

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Note: *Schedule C, D, and Exhibit A are not attached hereto but are incorporated by reference and available, upon request, from the HCA Contract Manager.*

Contract #K4827 for Providing PATH Services

1. STATEMENT OF WORK (SOW)

The Contractor will provide the services and staff as described in Schedule A: *Statement of Work*.

2. DEFINITIONS

“Agreement” means this Agreement document and all schedules, exhibits, attachments, incorporated documents and amendments.

“Audit” means a systematic review, or appraisal made to determine whether internal accounting and other control systems provide reasonable assurance of compliance with:

- (1) Properly conducted financial operations;
- (2) Fairly and accurately presented financial reports;
- (3) Applicable laws, regulations, and other grant terms;
- (4) Economical and efficient management of grant resources; and
- (5) Effective achievement of desired results and objectives.

“Authorized Representative” means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

“Breach” means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.

“Business Associate” means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of HCA, a Covered Entity, that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate in this DSA includes Business Associate’s employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.

“Business Days and Hours” means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

“Case Management” for PATH clients means all of the following:

- (1) Preparing a plan for the provision of community mental health or co-occurring Substance Use Disorder services to PATH Eligible Homeless individuals, and reviewing such plan not less than once every 3 months;
- (2) Providing assistance in obtaining and coordinating social and maintenance

services for PATH Eligible Homeless individuals, including services relating to daily living activities, personal financial planning, transportation, Habilitation and Rehabilitation services, prevocational and vocational services, and Housing Services;

- (3) Providing assistance to PATH Eligible Homeless individuals in obtaining income support services, including housing assistance, food stamps, supplemental security, disability income benefits, and veterans' benefits;
- (4) Referring PATH Eligible Homeless individuals for other services consistent with the PATH client's needs; and
- (5) Providing representative payee services in accordance with Section 161 (a) (2) of the Social Security Act if the PATH Eligible Homeless individual is receiving aid under title XVI of such act and if the applicant is designated by the Secretary to provide such services.

“Centers for Medicare and Medicaid Services” or **“CMS”** means the federal office under the Secretary of the United States Department of Health and Human Services, responsible for the Medicare and Medicaid programs.

“Chronic Homelessness” means a homeless individual/head of household with a disability who:

- (1) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; AND
- (2) Has been homeless and living (in such a place) continuously for at least twelve (12) months OR on a least four (4) separate occasions in the last three (3) years, as long as combined occasions are greater than or equal to twelve (12) months; AND
- (3) Each break in homelessness equals seven-plus (7+) nights. Facility stays less than ninety (90) days do not constitute a break in homelessness. A homeless individual may be residing/have resided in an institutional care facility for less than ninety (90) days AND met all the above criteria before entering the facility.

“CFR” means the Code of Federal Regulations. All references in this Contract to CFR chapters or sections include any successor, amended, or replacement regulation. The CFR may be accessed at <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

“Confidential Information” means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or other state or federal statutes or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, (see also Protected Health Information); finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying

numbers, law enforcement records, HCA source code or object code, or HCA or State security information.

“Continuum of Care” or **“COC”** means community-wide commitment to the goal of ending homelessness; provides funding for efforts by nonprofit providers and State and local governments to quickly re-house homeless individuals and families to minimize trauma and dislocation; promotes access to and effective utilization of mainstream programs; and optimizes self-sufficiency among individuals and families experiencing homelessness.

“Contractor” means North Sound BHASO, its employees and agents. Contractor includes any firm, provider, organization, individual or other entity performing services under this Contract. It also includes any Subcontractor retained by Contractor as permitted under the terms of this Contract.

“Coordinated Entry” means a system that allows for coordinated entry into a local homeless service system, as well as coordinated movement within and ultimately exit from the system. Coordinated Entry increases the efficiency of a homeless assistance system by standardizing access to homeless services and coordinating program referrals.

“Co-Occuring” or **“Co-Occuring Serious Mental Illness and Substance use Disorder”** means an individual’s Serious Mental Illness and Substance Use Disorder can be diagnosed independently of one another.

“Contact” means an interaction between a PATH-funded worker or workers and an individual who is potentially PATH eligible or enrolled in PATH. Contacts should be recorded in HMIS throughout the entire process of outreach, engagement, enrollment and services.

“Covered entity” means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form to carry out financial or administrative activities related to health care, as defined in 45 CFR 160.103.

“Data” means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.

“Effective Date” means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“Enrolled PATH Client” means an individual who has been determined to meet the PATH eligibility criteria, for whom a clinical or formal record has been prepared, and who is receiving services under PATH Funds.

“Habilitation and Rehabilitation” means teaching PATH Enrolled Clients new skills or assisting PATH Enrolled Clients to re-learn skills they once had but lost as the result of Mental Illness or Co-Occurring Substance Use Disorder. **“HCA Contract Manager”** means the

individual identified on the cover page of this Contract who will provide oversight of the Contractor's activities conducted under this Contract.

“Health Care Authority” or **“HCA”** means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

“Homeless Management Information System” or **“HMIS”** means the system managed by the local continuum of care or the Balance of State homeless system managed by Department of Commerce. As mandated by the Homelessness Housing and Assistance Act (ESSHB 2163 - 2005), the Department of Commerce is responsible for operating an HMIS for counties that do not operate their own compliant system.

“Homeless” means homeless or at Imminent Risk of becoming homeless, lacking fixed, regular and adequate night-time residence, or having a primary night-time residence that is:

- (1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- (2) An institution that provides a temporary residence for individuals; and
- (3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

“Housing Services” means provision or assistance with:

- (1) Minor renovation, expansion, and repair of housing;
- (2) Plans for housing;
- (3) Applying for housing assistance;
- (4) Improving the coordination of housing services;
- (5) Security deposits;
- (6) Costs associated with matching PATH Eligible Homeless individuals with appropriate housing situations; and
- (7) One-time rental payment to prevent eviction.

“Imminent Risk” or **“At Risk”** of becoming Homeless means:

- (1) Having a recent history of homelessness;
- (2) Having a doubled-up living arrangement or temporary or inadequate housing where the individual's name is not on the lease;
- (3) Having received an eviction notice without a fixed, adequate night-time residence to which to move; and

- (4) Being discharged from a health care or criminal justice facility without a place to live.

“Intended Use Plan” or **“IUP”** means Section C of the Contractor-submitted and HCA-approved Local Provider Intended Use Plan for the Washington PATH Application for federal funding. For purposes of this Contract, the Contractor’s IUP is attached hereto and incorporated herein by this reference as Exhibit A.

“Outreach” in an HMIS context means face-to-face contact provided in an effort to identify PATH Eligible Clients that are living in a place not meant for human habitation on the night before contact.

“Overpayment” means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

“PATH Eligible” means an adult (age 18 or over) who is homeless or at imminent risk of homelessness with a diagnosable and persistent mental or emotional impairment that seriously limits the individual’s major life activities, and also individuals who may have Co-Occurring Substance Use Disorders.

“PATH Funds” means federal funds awarded by the state to the Contractor, and do not include the required non-federal match or any other form of match or funding.

“PATH Ineligible” individuals are individuals who are one or more of the following:

- (1) Under eighteen (18) years of age;
- (4) Have been housed for a period up to one year;
- (5) Are served by the Veterans Administration (VA) or VA subcontractors providing the full range of needed services stipulated by PATH statutes and regulations; and
- (6) Are enrolled into the Prepaid Inpatient Health Plan (PIHP) and/or a comparable service structure and are receiving all necessary services for transitioning the individual from homelessness into secure housing, community mental health or co-occurring Substance Use Disorder treatment services, case management services, employment services, psychiatric and medical services and/or other services that will assist the individual in avoiding homelessness.

“Prepaid Inpatient Health Plan” or **“PIHP”** means an entity that;

- (2) Provides medical services to enrollees under contract with the State agency, and on the basis of prepaid capitation payments, or other payment arrangements that do not use State plan payment rates;
- (3) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its enrollees; and

(4) Does not have a comprehensive risk contract.

“Projects for Assistance in Transition from Homelessness” or **“PATH”** means the Federal grant program that provides outreach and engagement services to individuals with serious mental illness who are homeless or at risk of homelessness.

“Proprietary Information” means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“Protected Health Information” or **“PHI”** means individually identifiable information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual, and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

“Regional Service Area” or **“RSA”** means a geographic area established by HCA and the Health Care Authority. The Contractor provides mental health services and substance use disorder treatment services within this area.

“RCW” means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: <http://apps.leg.wa.gov/rcw/>.

Use the appropriate type of procurement, e.g., RFQ , etc.

“Screening and Diagnostic” means a determination of need for services from either an assessment by a paraprofessional, or a formal diagnosis by a mental health professional.

“Serious Mental Illness” or **“Mental Illness”** means an adult (age 18 or over) individual who appears to have or has been determined to have a diagnosable and persistent mental or emotional impairment that seriously limits the individual’s major life activities and/or ability to live independently.

“Services” in an HMIS Data Entry context, means outreach and engagement activities in locations such as a social service program, such as a drop-in center or shelter where the person is living the night before contact.

“Statement of Work” or **“SOW”** means a detailed description of the work activities the Contractor is required to perform under the terms and conditions of this Contract, including the deliverables and timeline, and is Schedule A hereto.

“Subcontractor” means a person or entity that is not in the employment of the Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term “Subcontractor” means subcontractor(s) of any tier.

“Subrecipient” shall have the meaning given in 45 C.F.R. 75.2, or any successor or replacement to such definition, for any federal award from HHS; or 2 C.F.R. 200.93, or any successor or replacement to such definition, for any other federal award.

“Substance Use Disorder” means a diagnosable and persistent substance related disorder that seriously limits the individual’s major life activities and/or ability to live independently.

“USC” means the United States Code. All references in this Contract to USC chapters or sections will include any successor, amended, or replacement statute. The USC may be accessed at <http://uscode.house.gov/>

“WAC” means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: <http://app.leg.wa.gov/wac/>.

3. SPECIAL TERMS AND CONDITIONS

3.1 PERFORMANCE EXPECTATIONS

Expected performance under this Contract includes, but is not limited to, the following:

- 3.1.1 Knowledge of applicable state and federal laws and regulations pertaining to subject of contract;
- 3.1.2 Use of professional judgment;
- 3.1.3 Collaboration with HCA staff in Contractor’s conduct of the services;
- 3.1.4 Conformance with HCA directions regarding the delivery of the services;
- 3.1.5 Timely, accurate and informed communications;
- 3.1.6 Regular completion and updating of project plans, reports, documentation and communications;
- 3.1.7 Regular, punctual attendance at all meetings; and
- 3.1.8 Provision of high quality services.

Prior to payment of invoices, HCA will review and evaluate the performance of Contractor in accordance with Contract and these performance expectations and may withhold payment if expectations are not met or Contractor’s performance is unsatisfactory.

3.2 TERM

- 3.2.1 The initial term of the Contract will commence on October 1, 2020, or date of last signature, whichever is later, and continue through September 30, 2021, unless terminated sooner as provided herein.
- 3.2.2 Work performed without a contract or amendment signed by the authorized representatives of both parties will be at the sole risk of the Contractor. HCA will not pay any costs incurred before a contract or any subsequent amendment(s) is fully executed.

3.3 COMPENSATION

- 3.3.1 The Maximum Compensation payable to Contractor for the performance of all things necessary for or incidental to the performance of work as set forth in Schedule A: *Statement of Work* is \$51,76169,015, and includes any allowable expenses.
- 3.3.2 Day-to-day expenses related to performance under the Agreement, including but not limited to travel, lodging, meals, and incidentals, will not be reimbursed to Contractor. If Contractor is required by HCA to travel, any such travel must be authorized in writing by the HCA Contract Manager and reimbursement will be at rates not to exceed the then-current rules, regulations, and guidelines for State employees published by the Washington State Office of Financial Management in the Washington State Administrative and Accounting Manual (<http://www.ofm.wa.gov/policy/10.htm>); reimbursement will not exceed expenses actually incurred.

To receive reimbursement, Contractor must provide a detailed breakdown of authorized expenses and receipts for any expenses of \$50 or more.

- 3.3.3 Federal funds disbursed through this Contract were received by HCA through OMB Catalogue of Federal Domestic Assistance (CFDA) Number: 93.150, PATH, X06SM083702-01. Contractor agrees to comply with applicable rules and regulations associated with these federal funds and has signed Attachment 3: *Federal Compliance, Certification and Assurances*.
- 3.3.4 Funding that supports this contract comes from Projects for Assistance in Transition from Homelessness (PATH) funds, from the Department of Health and Human Services (DHHS), Catalog of Federal Domestic Assistance (CFDA) #93.150. All PATH direct awards are to be used for federally approved PATH services and activities as stated in RFA # SM-18-F2, and in accordance with the IUP.
- 3.3.5 The Contractor may expend funds up to the total amount listed in the HCA approved Contractor IUP Budget table. The Contractor is not limited to the

individual line item amounts in the HCA approved Contractor IUP Budget table. However, the Grant total may not be exceeded without a prior amendment to the Contract.

- 3.3.6 The basis for determining the allowability and allocability of budgeted costs under this Contract is:
 - 3.3.6.1 45 CFR 92.22;
 - 3.3.6.2 Public Health Service Grants Policy Statement;
 - 3.3.6.3 Authorizing legislation for the PATH Program; and
 - 3.3.6.4 Exhibit A, *Local Provider Intended Use Plan* (IUP).
- 3.3.7 Any subcontractor that is a non-profit entity, educational institution, or hospital is subject to 45 CFR Part 74.
- 3.3.8 The Contractor or any subcontractor that is a state or local government entity is subject to 45 CFR Part 92.
- 3.3.9 No payments shall be made to support emergency shelters, construct housing facilities, inpatient psychiatric treatment costs, inpatient Substance Use Disorder treatment costs, or to make cash payments to intended recipients of mental health or Substance Use Disorder services.
- 3.3.10 PATH Funds may be used only for the expenses clearly related and necessary to carry out the attached IUP, including both specifically identified direct costs and allowable indirect costs .
- 3.3.11 Administrative costs included in indirect costs shall not exceed 4 percent (4%) of PATH Funds directly or by subcontract.
- 3.3.12 Any lease arrangements utilizing PATH Funds under this Contract may not be funded beyond this Contract's period or performance, nor may the portion of the space leased with PATH Funds be used for purposes not supported by this Contract.

3.4 INVOICE AND PAYMENT

- 3.4.1 Contractor must submit accurate invoices on State for A-19 to the following address for all amounts to be paid by HCA via e-mail to: hcabaccounts payable@hca.wa.gov. Include the HCA Contract number in the subject line of the email.
- 3.4.2 The contractor must submit claims for reimbursement and certify their local match no more often than monthly, no less often than quarterly. Claims must be submitted no later than the 30th day following the end of a calendar year quarter.

Required Match is a minimum of 33.333 percent of the total PATH award listed above.

- 3.4.3 Invoices shall provide the amount of PATH Funds claimed in each budget line item, as well as the aggregate amount in the Local Match category in the HCA approved Contractor IUP Budget table, for the time period being billed. Local Match figures must also take into account those funds to match the amount provided for the Data Collection Activities.
- 3.4.4 Invoices must describe and document to HCA's satisfaction a description of the work performed, the progress of the project, and fees. If expenses are invoiced, invoices must provide a detailed breakdown of each type. Any single expense in the amount of \$50.00 or more must be accompanied by a receipt in order to receive reimbursement. All invoices will be reviewed and must be approved by the Contract Manager or his/her designee prior to payment.
- 3.4.5 Contractor must submit properly itemized invoices to include the following information, as applicable:
 - 3.4.5.1 HCA Contract number K4827;
 - 3.4.5.2 Contractor name, address, phone number;
 - 3.4.5.3 Description of Services;
 - 3.4.5.4 Date(s) of delivery;
 - 3.4.5.5 Net invoice price for each item;
 - 3.4.5.6 Applicable taxes;
 - 3.4.5.7 Total invoice price; and
 - 3.4.5.8 Payment terms and any available prompt payment discount.
- 3.4.6 HCA will return incorrect or incomplete invoices to the Contractor for correction and reissue. The Contract Number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.
- 3.4.7 In order to receive payment for services or products provided to a state agency, Contractor must register with the Statewide Payee Desk at <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services/receiving-payment-state>. Payment will be considered timely if made by HCA within thirty (30) calendar days of receipt of properly completed invoices. Payment will be directly deposited in the bank account or sent to the address Contractor designated in its registration.

3.4.8 Upon expiration of the Agreement, any claims for payment for costs due and payable under this Contract that are incurred prior to the expiration date must be submitted by the Contractor to HCA no later than October 31, 2021. HCA is under no obligation to pay any claims that are submitted November 1, 2021 or later (“Belated Claims”). HCA will pay Belated Claims at its sole discretion, and any such potential payment is contingent upon the availability of funds.

3.5 CONTRACTOR AND HCA CONTRACT MANAGERS

3.5.1 Contractor’s Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for the HCA Contract Manager for all business matters, performance matters, and administrative activities.

3.5.2 HCA’s Contract Manager is responsible for monitoring the Contractor’s performance and will be the contact person for all communications regarding contract performance and deliverables. The HCA Contract Manager has the authority to accept or reject the services provided and must approve Contractor’s invoices prior to payment.

3.5.3 The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

CONTRACTOR Contract Manager Information		Health Care Authority Contract Manager Information	
Name:	Joe Valentine	Name:	Lisa Bennett-Perry
Address:	301 Valley Mall Way, Suite #110 Mount Vernon, WA 98273-5462	Address:	626 8 th Ave SE PO Box 42730 Olympia, WA 98504-2730
Phone:	360-416-7013	Phone:	360-725-1961
Email:	joe_valentine@nsbhaso.org	Email:	lisa.bennett-perry@hca.wa.gov

3.6 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person, via email, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section.

3.6.1 In the case of notice to the Contractor:

Attention: Joe Valentine
North Sound BHASO
301 Valley Mall Way, Suite #110
Mount Vernon, WA 98273-5462
joe_valentine@nsbhaso.org

3.6.2 In the case of notice to HCA:

Attention: Contracts Administrator
Health Care Authority
Division of Legal Services
Post Office Box 42702
Olympia, WA 98504-2702
contracts@hca.wa.gov

3.6.3 Notices are effective upon receipt or four (4) Business Days after mailing, whichever is earlier.

3.6.4 The notice address and information provided above may be changed by written notice of the change given as provided above.

3.7 INCORPORATION OF DOCUMENTS AND ORDER OF PRECEDENCE

Each of the documents listed below is by this reference incorporated into this Contract. In the event of an inconsistency, the inconsistency will be resolved in the following order of precedence:

- 3.7.1 Applicable Federal and State of Washington statutes and regulations;
- 3.7.2 Special Terms and Conditions;
- 3.7.3 General Terms and Conditions;
- 3.7.4 Attachment 1: *Confidential Information Security Requirements*;
- 3.7.5 Attachment 2: *Data Use, Security, and Confidentiality*;
 - 3.7.5.1 Attachment 2.1: *User Agreement on Non-Disclosure of Confidential Information*;
- 3.7.6 Attachment 3: *Substance Abuse and Mental Health Services Administration Award Terms*;
- 3.7.7 Attachment 4: *Federal Compliance, Certifications, and Assurances*;
- 3.7.8 Attachment 5: *Federal Funding Accountability and Transparency Act Data Collection Form*;
- 3.7.9 Attachment 6: *Federal Award Identification for Subrecipients*;

- 3.7.10 Schedule A(s): *Statement(s) of Work*;
- 3.7.11 Schedule B: *Service Definitions for PATH Funded Services*;
- 3.7.12 Schedule C: *PATH Program HMIS Manual – 2020*;
- 3.7.13 Schedule D: *PATH Annual Report Manual*; and
- 3.7.14 Any other provision, term or material incorporated herein by reference or otherwise incorporated.

3.8 INSURANCE

Contractor must provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Contractor must provide insurance coverage that is maintained in full force and effect during the term of this Contract, as follows:

- 3.8.1 Commercial General Liability Insurance Policy - Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1 million per occurrence/\$2 million general aggregate. Additionally, Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- 3.8.2 Business Automobile Liability. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned, hired, or non-owned by the Contractor, automobile liability insurance is required covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
- 3.8.3 Professional Liability Errors and Omissions – Provide a policy with coverage of not less than \$1 million per claim/\$2 million general aggregate.
- 3.8.4 The insurance required must be issued by an insurance company/ies authorized to do business within the state of Washington, and must name HCA and the state of Washington, its agents and employees as additional insured's under any Commercial General and/or Business Automobile Liability policy/ies. All policies must be primary to any other valid and collectable insurance. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Contractor must provide written notice of such to HCA within one (1) Business Day of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at HCA's sole option, result in this Contract's termination.

3.8.5 Privacy Breach Response Coverage. Contractor must maintain insurance to cover costs incurred in connection with a Breach, or potential Breach, including:

3.8.5.1 Computer forensics assistance to assess the impact of the Breach or potential Breach, determine root cause, and help determine whether and the extent to which notification must be provided to comply with Breach notification laws.

3.8.5.2 Notification and call center services for individuals affected by a Breach.

3.8.5.3 Breach resolution and mitigation services for individuals affected by a Breach, including fraud prevention, credit monitoring and identity theft assistance.

3.8.5.4 Regulatory defense, fines and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).

The policy must be maintained for the term of this Agreement and three (3) years following its termination.

3.8.6 If applicable the Receiving Party certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified above and will provide certificates of insurance to that effect to HCA upon request.

Upon request, Contractor must submit to HCA a certificate of insurance that outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor must submit renewal certificates as appropriate during the term of the contract.

4. GENERAL TERMS AND CONDITIONS

4.1 ACCESS TO DATA

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

4.2 ADVANCE PAYMENT PROHIBITED

No advance payment will be made for services furnished by the Contractor pursuant to this Contract.

4.3 AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4.4 ASSIGNMENT

4.4.1 Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 4.37, *Subcontracting*, without the prior written consent of HCA. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to HCA that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer or delegation in contravention of this Subsection 4.4.1 of the Contract will be null and void.

4.4.2 HCA may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

4.4.3 This Contract will inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

4.5 ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the terms of this Contract, each party agrees to bear its own attorneys' fees and costs.

4.6 CHANGE IN STATUS

In the event of any substantive change in its legal status, organizational structure, or fiscal reporting responsibility, Contractor will notify HCA of the change. Contractor must provide notice as soon as practicable, but no later than thirty (30) calendar days after such a change takes effect.

4.7 CONFIDENTIAL INFORMATION PROTECTION

4.7.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to

release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without HCA's express written consent or as provided by law. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information (see Attachment 1: *Confidential Information Security Requirements*).

- 4.7.2 Contractors that come into contact with Protected Health Information may be required to enter into a Business Associate Agreement with HCA in compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act) (HIPAA).
- 4.7.3 HCA reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.
- 4.7.4 The obligations set forth in this Section will survive completion, cancellation, expiration, or termination of this Contract.

4.8 CONFIDENTIAL INFORMATION SECURITY

The federal government, including the Centers for Medicare and Medicaid Services (CMS), and the State of Washington all maintain security requirements regarding privacy, data access, and other areas. Contractor is required to comply with the Confidential Information Security Requirements set out in Attachment 1 to this Contract and appropriate portions of the Washington OCIO Security Standard, 141.10 (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>).

4.9 CONFIDENTIAL INFORMATION BREACH – REQUIRED NOTIFICATION

- 4.9.1 Contractor must notify the HCA Privacy Officer (hcaprivacyofficer@hca.wa.gov) within five Business Days of discovery of any Breach or suspected Breach of Confidential Information.
- 4.9.2 Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees and taking steps necessary to stop further unauthorized access. Contractor agrees to indemnify and hold HCA harmless for any damages related to unauthorized use or disclosure of Confidential Information by Contractor, its officers, directors, employees, Subcontractors or agents.

- 4.9.3 If notification of the Breach or possible Breach must (in the judgment of HCA) be made under the HIPAA Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010, or other law or rule, then:
 - 4.9.3.1 HCA may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services Secretary (DHHS) Secretary, and to the media, or direct Contractor to make them or any of them.
 - 4.9.3.2 In any case, Contractor will pay the reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA reasonably considers appropriate to protect HCA clients (such as paying for regular credit watches in some cases).
 - 4.9.3.3 Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.
- 4.9.4 Any breach of this clause may result in termination of the Contract and the demand for return or disposition (Attachment 1, Section 6) of all Confidential Information.
- 4.9.5 Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any breach or possible breach at any time.

4.10 CONTRACTOR'S PROPRIETARY INFORMATION

Contractor acknowledges that HCA is subject to chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, HCA will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, HCA will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, HCA will release the requested information on the date specified.

4.11 COVENANT AGAINST CONTINGENT FEES

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. HCA will have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or

consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

4.12 DEBARMENT

By signing this Contract, Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Washington State or Federal department or agency from participating in transactions (debarred). Contractor agrees to include the above requirement in any and all subcontracts into which it enters, and also agrees that it will not employ debarred individuals. Contractor must immediately notify HCA if, during the term of this Contract, Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice, if Contractor becomes debarred during the term hereof.

4.13 DISPUTES

The parties will use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve any dispute. When a genuine dispute arises between HCA and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

4.13.1 The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, then the initiating party may request that the HCA Director review the dispute. Any such request from the initiating party must be submitted in writing to the HCA Director within five (5) Business Days after receiving the response of the responding party. The HCA Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The HCA Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.

4.13.2 A party's request for a dispute resolution must:

4.13.2.1 Be in writing;

4.13.2.2 Include a written description of the dispute;

4.13.2.3 State the relative positions of the parties and the remedy sought; and

4.13.2.4 State the Contract Number and the names and contact information for the parties.

4.13.3 This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process will precede any action in a judicial or quasi-judicial tribunal.

4.14 ENTIRE AGREEMENT

HCA and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 4.44 *Warranties*.

4.15 FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT (FFATA)

4.15.1 This Contract is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how federal funds are spent.

4.15.2 To comply with the act and be eligible to enter into this Contract, Contractor must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If Contractor does not already have one, a DUNS® number is available free of charge by contacting Dun and Bradstreet at www.dnb.com.

4.15.3 Information about Contractor and this Contract will be made available on www.uscontractorregistration.com by HCA as required by P.L. 109-282. HCA's Attachment 4: Federal Funding Accountability and Transparency Act Data Collection Form, is considered part of this Contract and must be completed and returned along with the Contract.

4.16 FORCE MAJEURE

A party will not be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

4.17 FUNDING WITHDRAWN, REDUCED OR LIMITED

If HCA determines in its sole discretion that the funds it relied upon to establish this Contract have been withdrawn, reduced or limited, or if additional or modified conditions

are placed on such funding after the effective date of this contract but prior to the normal completion of this Contract, then HCA, at its sole discretion, may:

- 4.17.1 Terminate this Contract pursuant to Section 4.41.3, *Termination for Non-Allocation of Funds*;
- 4.17.2 Renegotiate the Contract under the revised funding conditions; or
- 4.17.3 Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. HCA will use this option only when HCA determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.
 - 4.17.3.1 During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
 - 4.17.3.2 When HCA determines in its sole discretion that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to HCA informing HCA whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
 - 4.17.3.3 If the Contractor's proposed resumption date is not acceptable to HCA and an acceptable date cannot be negotiated, HCA may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.

4.18 GOVERNING LAW

This Contract is governed in all respects by the laws of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

4.19 HCA NETWORK SECURITY

Contractor agrees not to attach any Contractor-supplied computers, peripherals or software to the HCA Network without prior written authorization from HCA's Chief

Information Officer. Unauthorized access to HCA networks and systems is a violation of HCA Policy and constitutes computer trespass in the first degree pursuant to RCW 9A.52.110. Violation of any of these laws or policies could result in termination of the contract and other penalties.

Contractor will have access to the HCA visitor Wi-Fi Internet connection while on site.

4.20 INDEMNIFICATION

Contractor must defend, indemnify, and save HCA harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property, or Breach of its confidentiality and notification obligations under Section 4.7 *Confidential Information Protection* and Section 4.9 *Confidentiality Breach-Required Notification*, arising from intentional or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents, in the performance of this Contract.

4.21 INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. Contractor and its employees or agents performing under this Contract are not employees or agents of HCA. Contractor will not hold itself out as or claim to be an officer or employee of HCA or of the State of Washington by reason hereof, nor will Contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with Contractor.

4.22 INDUSTRIAL INSURANCE COVERAGE

Prior to performing work under this Contract, Contractor must provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW, and must maintain full compliance with Title 51 RCW during the course of this Contract.

4.23 LEGAL AND REGULATORY COMPLIANCE

- 4.23.1 During the term of this Contract, Contractor must comply with all local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract and all other applicable federal, state and local laws, rules, and regulations.
- 4.23.2 While on the HCA premises, Contractor must comply with HCA operations and process standards and policies (e.g., ethics, Internet / email usage, data, network and building security, harassment, as applicable). HCA will make an electronic copy of all such policies available to Contractor.
- 4.23.3 Failure to comply with any provisions of this section may result in Contract termination.

4.24 LIMITATION OF AUTHORITY

Only the HCA Authorized Representative has the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by the HCA Authorized Representative.

4.25 NO THIRD-PARTY BENEFICIARIES

HCA and Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this Contract to any third parties.

4.26 NONDISCRIMINATION

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with HCA.

4.27 OVERPAYMENTS TO CONTRACTOR

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, HCA will provide written notice to Contractor and Contractor will refund the full amount to HCA within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, HCA may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with HCA's actions under this section, then it may invoke the dispute resolution provisions of Section 4.13 *Disputes*.

4.28 PAY EQUITY

4.28.1 Contractor represents and warrants that, as required by Washington state law (Engrossed House Bill 1109, Sec. 211), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

4.28.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a

system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.

- 4.28.3 Bona fide job-related factor(s)” may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.
- 4.28.4 A “bona fide regional difference in compensation level” must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.
- 4.28.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor’s failure to provide satisfactory evidence of compliance within thirty (30) Days of HCA’s request for such evidence, HCA may suspend or terminate this Contract.

4.29 PUBLICITY

- 4.29.1 The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor’s Services by HCA and must not be so construed by Contractor in any advertising or other publicity materials.
- 4.29.2 Contractor agrees to submit to HCA, all advertising, sales promotion, and other publicity materials relating to this Contract or any Service furnished by Contractor in which HCA’s name is mentioned, language is used, or Internet links are provided from which the connection of HCA’s name with Contractor’s Services may, in HCA’s judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA prior to such use.

4.30 RECORDS AND DOCUMENTS REVIEW

- 4.30.1 The Contractor must maintain books, records, documents, magnetic media, receipts, invoices or other evidence relating to this Contract and the performance of the services rendered, along with accounting procedures and practices, all of which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. At no additional cost, these records, including materials generated under this Contract, are subject at all reasonable times to inspection, review, or audit by HCA, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement [See 42 USC 1396a(a)(27)(B); 42 USC 1396a(a)(37)(B); 42 USC 1396a(a)(42)(A); 42 CFR 431, Subpart Q; and 42 CFR 447.202].

4.30.2 The Contractor must retain such records for a period of six (6) years after the date of final payment under this Contract.

4.30.3 If any litigation, claim or audit is started before the expiration of the six (6) year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved.

4.31 REMEDIES NON-EXCLUSIVE

The remedies provided in this Contract are not exclusive, but are in addition to all other remedies available under law.

4.32 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to HCA, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

4.33 RIGHTS IN DATA/OWNERSHIP

4.33.1 HCA and Contractor agree that all data and work products (collectively "Work Product") produced pursuant to this Contract will be considered a *work for hire* under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned by HCA. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

4.33.2 If for any reason the Work Product would not be considered a *work for hire* under applicable law, Contractor assigns and transfers to HCA, the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

4.33.3 Contractor will execute all documents and perform such other proper acts as HCA may deem necessary to secure for HCA the rights pursuant to this section.

4.33.4 Contractor will not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of HCA. Contractor will take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors will not

copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

- 4.33.5 Material that is delivered under this Contract, but that does not originate therefrom (“Preexisting Material”), must be transferred to HCA with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. HCA will have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.
- 4.33.6 Contractor must identify all Preexisting Material when it is delivered under this Contract and must advise HCA of any and all known or potential infringements of publicity, privacy or of intellectual property affecting any Preexisting Material at the time of delivery of such Preexisting Material. Contractor must provide HCA with prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract.

4.34 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, including but not limited to the Centers for Medicare and Medicaid Services (CMS), will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

4.35 SEVERABILITY

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

4.36 SITE SECURITY

While on HCA premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. HCA reserves the right and authority to immediately revoke security

access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify HCA.

4.37 SUBCONTRACTING

4.37.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of HCA. HCA has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to HCA for any breach in the performance of Contractor's duties.

4.37.2 Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts.

4.37.3 If at any time during the progress of the work HCA determines in its sole judgment that any Subcontractor is incompetent or undesirable, HCA will notify Contractor, and Contractor must take immediate steps to terminate the Subcontractor's involvement in the work.

4.37.4 The rejection or approval by the HCA of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to HCA.

4.37.5 HCA has no contractual obligations to any Subcontractor or vendor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

4.38 SUBRECIPIENT

4.38.1 General

If the Contractor is a subrecipient (as defined in 45 CFR 75.2 and 2 CFR 200.93) of federal awards, then the Contractor, in accordance with 2 CFR 200.501 and 45 CFR 75.501, shall:

4.38.1.1 Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;

4.38.1.2 Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws,

regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;

- 4.38.1.3 Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
- 4.38.1.4 Incorporate OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
- 4.38.1.5 Comply with any future amendments to OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 and any successor or replacement Circular or regulation;
- 4.38.1.6 Comply with the applicable requirements of OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 and any future amendments to OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, and any successor or replacement Circular or regulation; and
- 4.38.1.7 Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <http://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)

4.38.2 Single Audit Act Compliance

If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor will procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor will:

- 4.38.2.1 Submit to the Authority contact person the data collection form and reporting package specified in OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
- 4.38.2.2 Follow-up and develop corrective action for all audit findings; in accordance with OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, prepare a "Summary Schedule of Prior Audit Findings."

4.38.3 Overpayments

4.38.3.1 If it is determined by HCA, or during the course of a required audit, that Contractor has been paid unallowable costs under this or any Program Agreement, Contractor will refund the full amount to HCA as provided in Section 4.27 *Overpayments to Contractors*.

4.39 SURVIVAL

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled *Confidential Information Protection, Confidential Information Breach – Required Notification, Contractor’s Proprietary Information, Disputes, Overpayments to Contractor, Publicity, Records and Documents Review, Rights in Data/Ownership, and Rights of State and Federal Governments* will survive the termination of this Contract. The right of HCA to recover any overpayments will also survive the termination of this Contract.

4.40 TAXES

HCA will pay sales or use taxes, if any, imposed on the services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor’s income or gross receipts, or personal property taxes levied or assessed on Contractor’s personal property. HCA, as an agency of Washington State government, is exempt from property tax.

Contractor must complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

4.41 TERMINATION

4.41.1 TERMINATION FOR DEFAULT

In the event HCA determines that Contractor has failed to comply with the terms and conditions of this Contract, HCA has the right to suspend or terminate this Contract. HCA will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other time period agreed to in writing by both parties, the Contract may be terminated. HCA reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by HCA to terminate the Contract.

In the event of termination for default, Contractor will be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative

costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

If it is determined that Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault or negligence, the termination will be deemed a "Termination for Convenience."

4.41.2 TERMINATION FOR CONVENIENCE

When, at HCA's sole discretion, it is in the best interest of the State, HCA may terminate this Contract in whole or in part by providing ten (10) calendar days' written notice. If this Contract is so terminated, HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.41.3 TERMINATION FOR NONALLOCATION OF FUNDS

If funds are not allocated to continue this Contract in any future period, HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such nonallocation at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.41.4 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of HCA to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.41.5 TERMINATION FOR CONFLICT OF INTEREST

HCA may terminate this Contract by written notice to the Contractor if HCA determines, after due notice and examination, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, HCA will be entitled to pursue the same

remedies against the Contractor as it could pursue in the event Contractor breaches the contract.

4.42 TERMINATION PROCEDURES

- 4.42.1 Upon termination of this Contract, HCA, in addition to any other rights provided in this Contract, may require Contractor to deliver to HCA any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.
- 4.42.2 HCA will pay Contractor the agreed-upon price, if separately stated, for completed work and services accepted by HCA and the amount agreed upon by the Contractor and HCA for (i) completed work and services for which no separate price is stated; (ii) partially completed work and services; (iii) other property or services that are accepted by HCA; and (iv) the protection and preservation of property, unless the termination is for default, in which case HCA will determine the extent of the liability. Failure to agree with such determination will be a dispute within the meaning of Section 4.13 *Disputes*. HCA may withhold from any amounts due the Contractor such sum as HCA determines to be necessary to protect HCA against potential loss or liability.
- 4.42.3 After receipt of notice of termination, and except as otherwise directed by HCA, Contractor must:
- 4.42.3.1 Stop work under the Contract on the date of, and to the extent specified in, the notice;
- 4.42.3.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- 4.42.3.3 Assign to HCA, in the manner, at the times, and to the extent directed by HCA, all the rights, title, and interest of the Contractor under the orders and subcontracts so terminated; in which case HCA has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- 4.42.3.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of HCA to the extent HCA may require, which approval or ratification will be final for all the purposes of this clause;
- 4.42.3.5 Transfer title to and deliver as directed by HCA any property required to be furnished to HCA;

4.42.3.6 Complete performance of any part of the work that was not terminated by HCA; and

4.42.3.7 Take such action as may be necessary, or as HCA may direct, for the protection and preservation of the records related to this Contract that are in the possession of the Contractor and in which HCA has or may acquire an interest.

4.43 WAIVER

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the HCA Authorized Representative has the authority to waive any term or condition of this Contract on behalf of HCA.

4.44 WARRANTIES

4.44.1 Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to HCA.

4.44.2 Contractor represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.

4.44.3 Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor to HCA or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence HCA to enter into this Contract.

ATTACHMENT 1

Confidential Information Security Requirements

1. Definitions

In addition to the definitions set out in Section 2 of this Contract K4027 for PATH Services, the definitions below apply to this Attachment.

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

1. Confidential Information Transmitting

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

2. Protection of Confidential Information

The Contractor agrees to store Confidential Information as described:

a. Data at Rest:

- i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- ii. Data stored on Portable/Removable Media or Devices:
 - Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
 - HCA's data must not be stored by the Receiving Party on Portable Devices or Media unless specifically authorized within the Data Share Agreement. If so authorized, the Receiving Party must protect the Data by:
 1. Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
 2. Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 3. Keeping devices in locked storage when not in use;
 4. Using check-in/check-out procedures when devices are shared;
 5. Maintain an inventory of devices; and
 6. Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.

- b. Paper documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in

use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

3. Confidential Information Segregation

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

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

4. Confidential Information Shared with Subcontractors

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

5. Confidential Information Disposition

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

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

ATTACHMENT 2

Data Use, Security, and Confidentiality

1. Definitions

In addition to the definitions set out in Section 2, Definitions, of the Contract, the definitions below apply to this Exhibit:

“Authorized User” means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Contract.

“Business Associate” means a Business Associate as defined in 45 C.F.R § 160.103, who performs or assists in the performance of an activity for or on behalf of HCA, a Covered Entity, that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate in this Exhibit includes Business Associate’s employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.

“Business Associate Agreement” or **“BAA”** means the HIPAA Compliance section of this Exhibit, Section XX, and includes the Business Associate provisions required by the U.S. Department of Health and Human Services (DHHS), Office for Civil Rights.

“Client” means an individual who is eligible for or receiving Medicaid services.

“Covered Entity” means HCA, which is a Covered Entity as defined in 45 C.F.R. § 160.103, in its conduct of covered functions by its health care components.

“Data” means the information that is disclosed or exchanged as described by this Contract. For purposes of this Contract, Data means the same as “Confidential Information.”

“Disclosure” means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).

“HIPAA Rules” means the Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Parts 160 and 164.

“Individual(s)” means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

“Minimum Necessary” means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.

“Personal Information” means information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use, or receipt of

governmental services or other activities, address, telephone numbers, social security numbers, driver's license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.

"ProviderOne" means the Medicaid Management Information System (MMIS), which is the State's Medicaid payment system managed by HCA.

"Regulation" means any federal, state, or local regulation, rule, or ordinance.

"Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

"Use" includes the sharing, employment, application, utilization, examination, or analysis of Data.

2. Description of Data

2.1. See Schedule C, *PATH Program HMIS Manual – 2020*, and Schedule D, *PATH Annual Report Manual*.

2.1.1. Please note: Schedule C and D are not attached hereto but are incorporated by reference and are available upon request from the HCA Contract Manager listed on the Cover Page of this Contract.

3. Data Classification

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

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

Category 1 – Public Information

Public information is information that can be or currently is released to the public. It does not need protection from unauthorized disclosure, but does need integrity and availability protection controls.

Category 2 – Sensitive Information

Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.

Category 3 – Confidential Information

Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:

- Personal Information about individuals, regardless of how that information is obtained;

- Information concerning employee personnel records;
 - Information regarding IT infrastructure and security of computer and telecommunications systems;
- Category 4 – Confidential Information Requiring Special Handling.

Category 4 Data is information that is specifically protected from disclosure and for which:

- Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

4. Constraints on Use of Data

- 4.1. The Data being shared/accessed is owned and belongs to HCA.
- 4.2. This Contract does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Contract only to carry out the purpose of this Contract. Any analyses, use, or reporting that is not within the Purpose of this Contract is not permitted without HCA's prior written consent.
- 4.3. Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.

5. Security of Data

5.1. Data Protection

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

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

5.2. Data Security Standards

Contractor must comply with the Data Security Requirements set out in Attachment 1, *Confidential Information Security Requirements*, and the Washington OCIO Security Standard, 141.10, which will include any successor, amended, or replacement regulation ([https://ocio.wa.gov/policy/securing-information-technology-assets.](https://ocio.wa.gov/policy/securing-information-technology-assets)) The Security Standard 141.10 is hereby incorporated by reference into this Contract.

5.3. Data Disposition

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

Upon request by HCA, at the end of the Contract term, when no longer needed, or 6 years after the end of the fiscal year in which the Data is received, Confidential Information/Data must be returned to HCA or disposed of as set out in Attachment 1, *Confidential Information Security Requirements*, except as required to be maintained for compliance or accounting purposes.

6. Data Confidentiality and Non-Disclosure

6.1. Data Confidentiality

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

- i. As provided by law; or
- ii. With the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.

6.2. Non-Disclosure of Data

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

The Contractor will ensure that each employee or Subcontractor who will access the Data signs the *User Agreement on Non-Disclosure of Confidential Information*, Attachment 2.1 hereto. The Contractor will retain the signed copy of the *User Agreement on Non-Disclosure of Confidential Information* in each employee’s personnel file for a minimum of six years from the date the employee’s access to the Data ends. The documentation must be available to HCA upon request.

6.3. Penalties for Unauthorized Disclosure of Data

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

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

7. Data Shared with Subcontractors

If Data access is to be provided to a Subcontractor under this Contract, the Contractor must include all of the Data security terms, conditions and requirements set forth in this Contract in any such Subcontract. However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Contract nor for oversight of any functions and/or responsibilities it delegates to any subcontractor

8. HIPAA Compliance

This section of this Exhibit is the Business Associate Agreement required by HIPAA. The Contractor is a "Business Associate" of HCA as defined in the HIPAA Rules.

- 8.1. **HIPAA Point of Contact.** The point of contact for the Receiving Party for all required HIPAA-related reporting and notification communications from this Section 8, *HIPAA Compliance* and all required Data breach notification communications from Section 9, *Data Breach Notification*, is:

HCA Privacy Officer
 Washington State Health Care Authority
 626 8th Avenue SE
 PO Box 42700
 Olympia, WA 98504-2700
 Telephone: 360-725-1116
 E-mail: PrivacyOfficer@hca.wa.gov

- 8.2. **Compliance.** Business Associate must perform all DSA duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable.
- 8.3. **Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:
- 8.3.1. **Duty to Protect PHI.** Business Associate must protect PHI from, and will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to ePHI, to prevent the unauthorized Use or disclosure of PHI for as long as the PHI is within its possession and control, even after the termination or expiration of this DSA.
- 8.3.2. **Minimum Necessary Standard.** Business Associate will apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this DSA. See 45 CFR 164.514 (d)(2) through (d)(5).
- 8.3.3. **Disclosure as Part of the Provision of Services.** Business Associate will only Use or disclose PHI as necessary to perform the services specified in this DSA or as required by law, and will not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.

- 8.3.4. Use for Proper Management and Administration. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 8.3.5. Disclosure for Proper Management and Administration. Business Associate may disclose PHI for the proper management and administration of Business Associate, subject to HCA approval, or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- 8.3.6. Impermissible Use or Disclosure of PHI. Business Associate must report to the contact identified in Subsection **Error! Reference source not found.** in writing all Uses or disclosures of PHI not provided for by this DSA within five (5) business days of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by HCA, Business Associate will mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
- 8.3.7. Failure to Cure. If HCA learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this DSA and reasonable steps by the Business Associate do not end the violation, HCA may terminate this DSA, if feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate must terminate the Subcontract, if feasible.
- 8.3.8. Termination for Cause. Business Associate authorizes immediate termination of this DSA by HCA, if they determine that Business Associate has violated a material term of this Business Associate Agreement. HCA may, at their sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- 8.3.9. Consent to Audit. Business Associate must give reasonable access to PHI, its internal practices, records, books, documents, electronic data and/or all other business information received from, or created or received by Business Associate on behalf of HCA, to the Secretary of DHHS and/or to HCA for use in determining compliance with HIPAA privacy requirements.
- 8.3.10. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this DSA for any reason, with respect to PHI received from HCA, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of HCA, Business Associate must:

- a. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
- b. Return to HCA or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
- c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
- d. Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in Subsection **Error! Reference source not found.** Use and Disclosure of PHI that applied prior to termination; and
- e. Return to HCA or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

8.3.11. Survival. The obligations of the Business Associate under this section will survive the termination or expiration of this DSA.

8.4. Individual Rights.

8.4.1. Accounting of Disclosures.

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

8.4.2. Access

- a. Business Associate will make available PHI that it holds that is part of a Designated Record Set when requested by HCA or the Individual as necessary to satisfy HCA's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).
- b. When the request is made by the Individual to the Business Associate or if HCA ask the Business Associate to respond to a request, the Business Associate must comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by HCA, the Business Associate will provide the records to HCA within ten (10) business days.

8.4.3. Amendment.

- a. If HCA amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and HCA has previously provided the PHI or record that is the subject of the amendment to Business Associate, then HCA will inform Business Associate of the amendment pursuant to 45 CFR 164.526(c)(3) (Amendment of Protected Health Information).
- b. Business Associate will make any amendments to PHI in a Designated Record Set as directed by HCA or as necessary to satisfy HCA's obligations under 45 CFR 164.526 (Amendment of Protected Health Information).

8.5. **Subcontracts and other Third Party Agreements.** In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate must ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5).

8.6. **Obligations.** To the extent the Business Associate is to carry out one or more of HCA's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate must comply with all requirements that would apply to HCA in the performance of such obligation(s).

8.7. **Liability.** Within ten (10) business days, Business Associate must notify the contact identified in Subsection **Error! Reference source not found.** of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform HCA of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.

8.8. Breach Notification.

8.8.1. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from HCA or involving HCA clients, Business Associate will take all measures required by state or federal law.

8.8.2. Section **Error! Reference source not found.**, below, contains the Breach Notification terms.

8.9. Miscellaneous Provisions.

8.9.1. Regulatory References. A reference in this DSA to a section in the HIPAA Rules means the section as in effect or amended.

8.9.2. Interpretation. Any ambiguity in this DSA will be interpreted to permit compliance with the HIPAA Rules.

9. Data Breach Notification

9.1. The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov within 2 business days of discovery. If the Contractor does not have full details, it will report what information it has, and provide full details within 15 business days of discovery. To the extent possible, these reports must include the following:

9.1.1. The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;

9.1.2. The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;

9.1.3. A description of the types of PHI involved;

9.1.4. The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;

9.1.5. Any details necessary for a determination of the potential harm to individuals whose PHI is believed to have been used or disclosed and the steps those individuals should take to protect themselves; and

9.1.6. Any other information HCA reasonably requests.

9.2. The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.

9.3. If notification of the Breach or possible Breach must, in the judgement of HCA, be made under the HIPAA Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010, or other law or rule, then:

- 9.3.1. HCA may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services (DHHS) Secretary, and to the media, or direct Contractor to make them or any of them.
- 9.3.2. In any case, Contractor will pay the reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA reasonably considers appropriate to protect HCA clients, such as paying for regular credit watches in some cases.
- 9.3.3. Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.
- 9.4. Any breach of this clause may result in termination of the Contractor and the demand for return or disposition, as described in Section **Error! Reference source not found.**, of all Confidential Information.
- 9.5. Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any Breach or possible Breach at any time.

10. Inspection

HCA reserves the right to monitor, audit, or investigate compliance with this Contract in regards to the Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the term of this Contract and for six (6) years following termination or expiration of this Contract. HCA will have access to Contractor's records and place of business for this purpose. All HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

11. Indemnification for Unauthorized Use or Release

The Contractor must indemnify and hold HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI of Enrollees.

ATTACHMENT 2.1**User Agreement on Non-Disclosure of Confidential Information**

Your organization has entered into a Contract with the state of Washington Health Care Authority (HCA) that will allow you access to data and records that are deemed Confidential Information as defined below. Prior to accessing this Confidential Information you must sign this *User Agreement on Non-Disclosure of Confidential Information*.

CONFIDENTIAL INFORMATION

“Confidential Information” means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, Protected Health Information and Personal Information. For purposes of the pertinent Contract, Confidential Information means the same as “Data.”

“Protected Health Information” means information that relates to: the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or the past, present or future payment for provision of health care to an individual and includes demographic information that identifies the individual or can be used to identify the individual.

“Personal Information” means information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.

REGULATORY REQUIREMENTS AND PENALTIES

State laws (including, but not limited to, RCW 74.04.060, RCW 74.34.095, and RCW 70.02.020) and federal regulations (including, but not limited to, HIPAA Privacy and Security Rules, 45 CFR Part 160 and Part 164; Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR, Part 2; and Safeguarding Information on Applicants and Beneficiaries, 42 CFR Part 431, Subpart F) prohibit unauthorized access, use, or disclosure of Confidential Information. Violation of these laws may result in criminal or civil penalties or fines.

USER ASSURANCE OF CONFIDENTIALITY

In consideration for HCA granting me access to the Confidential Information that is the subject of this Agreement, I agree that I:

1. Will access, use, and disclose Confidential Information only in accordance with the terms of this Agreement and consistent with applicable statutes, regulations, and policies.
2. Have an authorized business requirement to access and use the Confidential Information.
3. Will not use or disclose any Confidential Information gained by reason of this Agreement for any commercial or personal purpose, or any other purpose that is not directly connected with this Agreement.
4. Will not use my access to look up or view information about family members, friends, the relatives or friends of other employees, or any persons who are not directly related to my assigned job duties.
5. Will not discuss Confidential Information in public spaces in a manner in which unauthorized individuals could overhear and will not discuss Confidential Information with unauthorized individuals, including spouses, domestic partners, family members, or friends.
6. Will protect all Confidential Information against unauthorized use, access, disclosure, or loss by employing reasonable security measures, including physically securing any computers, documents, or other media containing Confidential Information and viewing Confidential Information only on secure workstations in non-public areas.
7. Will not make copies of Confidential Information, or print system screens unless necessary to perform my assigned job duties and will not transfer any Confidential Information to a portable electronic device or medium, or remove Confidential Information on a portable device or medium from facility premises, unless the information is encrypted and I have obtained prior permission from my supervisor.
8. Will access, use or disclose only the “minimum necessary” Confidential Information required to perform my assigned job duties.
9. Will not distribute, transfer, or otherwise share any software with anyone.
10. Will forward any requests that I may receive to disclose Confidential Information to my supervisor for resolution and will immediately inform my supervisor of any actual or potential security breaches involving Confidential Information, or of any access to or use of Confidential Information by unauthorized users.
11. Understand at any time, HCA may audit, investigate, monitor, access, and disclose information about my use of the Confidential Information and that my intentional or unintentional violation of the terms of this Agreement may result in revocation of privileges to access the Confidential Information, disciplinary actions against me, or possible civil or criminal penalties or fines.
12. Understand that my assurance of confidentiality and these requirements will continue and do not cease at the time I terminate my relationship with my employer.

SIGNATURE

PRINT USER'S NAME	USER SIGNATURE	DATE

ATTACHMENT 3

Substance Abuse and Mental Health Services Administration Award Terms

If the funding for this Contract work should fall under the Substance Abuse and Mental Health Services Administration (SAMHSA) Award Terms outlined below the Contractor must comply with the requirements of those terms as they would apply to HCA.

1. SAMHSA Award Terms.

- 1.1 This grant is subject to the terms and conditions, included directly, or incorporated by reference on the Notice of Award (NoA).
- 1.2 Grant funds cannot be used to supplant current funding of existing activities.
- 1.3 By law, none of the funds awarded can be used to pay the salary of an individual at a rate in excess of the Executive Level 1, which is **\$197,300** annually.
- 1.4 Awardees and sub-recipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or sub-grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. SAMHSA or its designee may conduct a financial compliance audit and on-site program review of grants with significant amounts of Federal funding.
- 1.5 Per 45 Code of Federal Regulations (CFR) 74.36 and 45 CFR 92.34 and the US Department of Health and Human Services Grants Policy Statement, any copyrighted or copyrightable works developed under this cooperative agreement/grant shall be subject to royalty-free, nonexclusive and irrevocable license to the government to reproduce, publish, or otherwise use them and to authorize others to do so for General Government purposes. Income earned from any copyrightable work developed under this grant must be used as program income.
- 1.6 Program income accrued under this award must be used in accordance with the additional costs alternative described in 45 CFR 74.24(b) (1) or 45 CFR 92.25(g) (2) as applicable. Program income must be used to further the grant objectives and shall only be used for allowable costs as set forth in the applicable Office of Management and Budget circulars A-102 and A-110.
- 1.7 No part of an appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature.
- 1.8 No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agency acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.
- 1.9 Where a conference is funded by a grant or cooperative agreement the recipient must include the following statement on all conference materials (including promotional materials, agenda, and internet sites): "Funding for this conference was made possible (in part) by Grant X06SM083702-01 from SAMHSA. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services; nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government."

- 1.10** If federal funds are used by the Contractor to attend a meeting, conference, etc. and meal(s) are provided as part of the program, then the per diem applied to the Federal travel costs (Meal and Incidental Expenses allowance) must be reduced by the allotted meal cost(s).
- 1.11** Marijuana Attestation: The primary award recipient and all sub-recipients (contractor & sub-awardee) will not use funds, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also will not be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders (45 CFR. § 75.300(a); 21 United States Code §§ 812(c) (10) and 8410). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the Drug Enforcement Administration and under a US Food and Drug Administration-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.
- 1.12** Accessibility Provisions: Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-englishproficiency/guidance-federal-financial-assistance-recipients-title-VI/index.html>. The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see <http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html>. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see <http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at <https://www.hhs.gov/civil-rights> or call 1-800-368-1019 or TDD 1-800-537-7697. Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations.
- 1.13** Confidentiality of Alcohol and Drug Abuse Patient Records: Section 543 of the Public Health Service Act (42 U.S.C. 209dd-2) and the regulations at 42 CFR part 2 are applicable to any information about alcohol and other drug abuse patients obtained by a "program" (42 CFR 2.11), if the program is federally assisted in any manner (42 CFR 2.12b). Accordingly, all project patient records are confidential and may be disclosed and used only in accordance with 42 CFR part 2. The recipient is responsible for assuring compliance with these regulations and principles, including responsibility for assuring the security and confidentiality of all electronically transmitted patient material.
- 1.14** Award Term from 2 C.F.R. 175.15(b): Trafficking in persons.
- 1.14.1 Provisions applicable to a recipient that is a private entity.
- 1.14.1.1 You, as the recipient, your employees, sub-recipients under this award, and sub-recipients employees may not:
- 1.14.2 Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- 1.14.2.1 Procure a commercial sex act during the period of time that the award is in effect; or

1.14.2.2 Use forced labor in the performance of the award or sub-awards under the award.

ATTACHMENT 4

Federal Compliance, Certifications, and Assurances

- I. **FEDERAL COMPLIANCE** - The use of federal funds requires additional compliance and control mechanisms to be in place. The following represents the majority of compliance elements that may apply to any federal funds provided under this contract. For clarification regarding any of these elements or details specific to the federal funds in this contract, contact: **Lisa Bennett-Perry**.
- a. *Source of Funds PATH*: This Contract is being funded partially or in full through Cooperative Contract number X06SM083702-01, the full and complete terms and provisions of which are hereby incorporated into this Contract. Federal funds to support this Contract are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.150 in the amount of \$51,761. The Contractor or Subrecipient is responsible for tracking and reporting the cumulative amount expended under HCA Contract K4827.
 - b. *Period of Availability of Funds PATH*: Pursuant to 45 CFR 92.23, Contractor or Subrecipient may charge to the award only costs resulting from obligations of the funding period specified in X06SM083702-01 unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period. All obligations incurred under the award must be liquidated no later than 90 days after the end of the funding period.
 - c. *Single Audit Act*: This section applies to subrecipients only. Subrecipient (including private, for-profit hospitals and non-profit institutions) shall adhere to the federal Office of Management and Budget (OMB) Super Circular 2 CFR 200.501 and 45 CFR 75.501. A Subrecipient who expends \$750,000 or more in federal awards during a given fiscal year shall have a single or program-specific audit for that year in accordance with the provisions of OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501.
 - d. *Modifications*: This Contract may not be modified or amended, nor may any term or provision be waived or discharged, including this particular Paragraph, except in writing, signed upon by both parties.
 1. Examples of items requiring Health Care Authority prior written approval include, but are not limited to, the following:
 - i. Deviations from the budget and Project plan.
 - ii. Change in scope or objective of the Contract.
 - iii. Change in a key person specified in the Contract.
 - iv. The absence for more than one (1) months or a 25% reduction in time by the Project Manager/Director.
 - v. Need for additional funding.
 - vi. Inclusion of costs that require prior approvals as outlined in the appropriate cost principles.
 - vii. Any changes in budget line item(s) of greater than twenty percent (20%) of the total budget in this Contract.
 2. No changes are to be implemented by the Sub-awardee until a written notice of approval is received from the Health Care Authority.
 - e. *Sub-Contracting*: The Contractor or Subrecipient shall not enter into a sub-contract for any of the work performed under this Contract without obtaining the prior written approval of the Health Care Authority. If sub-contractors are approved by the Health Care Authority, the subcontract, shall contain, at a minimum, sections of the Contract pertaining to Debarred and Suspended Vendors, Lobbying certification, Audit requirements, and/or any other project Federal, state, and local requirements.
 - f. *Condition for Receipt of Health Care Authority Funds*: Funds provided by Health Care Authority to the Contractor or Subrecipient under this Contract may not be used by the Contractor or Subrecipient as a match or cost-sharing provision to secure other federal monies without prior written approval by the Health Care Authority.
 - g. *Unallowable Costs*: The Contractor or Subrecipient's expenditures shall be subject to reduction for amounts included in any invoice or prior payment made which determined by HCA not to constitute allowable costs on the basis of audits, reviews, or monitoring of this Contract.

- h. *Supplanting Compliance: SABG:* If SABG funds support this Contract, the Block Grant will not be used to supplant State funding of alcohol and other drug prevention and treatment programs. (45 CFR section 96.123(a)(10)).
- i. *Citizenship/Alien Verification/Determination:* The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (PL 104-193) states that federal public benefits should be made available only to U.S. citizens and qualified aliens. Entities that offer a service defined as a “federal public benefit” must make a citizenship/qualified alien determination/ verification of applicants at the time of application as part of the eligibility criteria. Non-US citizens and unqualified aliens are not eligible to receive the services. PL 104-193 also includes specific reporting requirements.
- j. *Federal Compliance:* The Contractor or Subrecipient shall comply with all applicable State and Federal statutes, laws, rules, and regulations in the performance of this Contract, whether included specifically in this Contract or not.
- k. *Civil Rights and Non-Discrimination Obligations:* During the performance of this Contract, the Contractor or Subrecipient shall comply with all current and future federal statutes relating to nondiscrimination. These include but are not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352), Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683 and 1685-1686), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107), the Drug Abuse Office and Treatment Act of 1972 (PL 92-255), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), and the Americans with Disability Act (42 U.S.C., Section 12101 et seq.) <http://www.hhs.gov/ocr/civilrights>.

HCA Federal Compliance Contact Information

Federal Grants and Budget Specialist Health Care Policy
 Washington State Health Care Authority
 Post Office Box 42710
 Olympia, Washington 98504-2710

II. **CIRCULARS ‘COMPLIANCE MATRIX’** - The following compliance matrix identifies the OMB Circulars that contain the requirements which govern expenditure of federal funds. These requirements apply to the Washington State Health Care Authority (HCA), as the primary recipient of federal funds and then follow the funds to the sub-awardee, **North Sound BHASO**. The federal Circulars which provide the applicable administrative requirements, cost principles and audit requirements are identified by sub-awardee organization type.

	OMB CIRCULAR		
ENTITY TYPE	ADMINISTRATIVE REQUIREMENTS	COST PRINCIPLES	AUDIT REQUIREMENTS
State, Local and Indian Tribal Governments and Governmental Hospitals	OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501		
Non-Profit Organizations and Non-Profit Hospitals			
Colleges or Universities and Affiliated Hospitals			
For-Profit Organizations			

III. **STANDARD FEDERAL CERTIFICATIONS AND ASSURANCES** - Following are the Assurances, Certifications, and Special Conditions that apply to all federally funded (in whole or in part) Contracts administered by the Washington State Health Care Authority.

- a. **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION** : The undersigned (authorized official signing for the contracting organization) certifies to the best of his or her knowledge and belief, that the contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency have not within a 3-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Section 2 of this certification; and have not within a 3-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the Contractor or Subrecipient not be able to provide this certification, an explanation as to why should be placed after the assurances page in the contract.

The contractor agrees by signing this contract that it will include, without modification, the clause above certification in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

- b. **CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS:** The undersigned (authorized official signing for the contracting organization) certifies that the contractor will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; Establishing an ongoing drug-free awareness program to inform employees about
 - i. The dangers of drug abuse in the workplace;
 - ii. The contractor's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 2. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (1) above;
 3. Notifying the employee in the statement required by paragraph (1), above, that, as a condition of employment under the contract, the employee will—
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
 4. Notifying the agency in writing within ten calendar days after receiving notice under paragraph (III)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every contract officer or other designee on whose contract activity the convicted employee was working, unless the Federal agency has

designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

5. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (III) (b), with respect to any employee who is so convicted—
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
6. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (I) through (V).

For purposes of paragraph (V) regarding agency notification of criminal drug convictions, Authority has designated the following central point for receipt of such notices:

Legal Services Manager
WA State Health Care Authority
PO Box 42700
Olympia, WA 98504-2700

- c. **CERTIFICATION REGARDING LOBBYING:** Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative Contracts from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative Contract. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative Contract must disclose lobbying undertaken with non-Federal (nonappropriated) funds. These requirements apply to grants and cooperative Contracts EXCEEDING \$100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the contracting organization) certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Contract.
2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.)
3. The undersigned shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subcontracts, and contracts under grants, loans and cooperative Contracts) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this

transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- d. **CERTIFICATION REGARDING PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA):** The undersigned (authorized official signing for the contracting organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the contracting organization will comply with the Public Health Service terms and conditions of award if a contract is awarded.
- e. **CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE:** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the contracting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The contracting organization agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all sub-recipients shall certify accordingly.

The Public Health Services strongly encourages all recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

f. CERTIFICATION REGARDING OTHER RESPONSIBILITY MATTERS

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
3. The prospective contractor shall provide immediate written notice to the department or agency to whom this contract is submitted if at any time the prospective contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules

implementing Executive Order 12549. You may contact the person to whom this contract is submitted for assistance in obtaining a copy of those regulations.

5. The prospective contractor agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by Authority.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, HCA may terminate this transaction for cause or default.

CONTRACTOR SIGNATURE REQUIRED

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE Executi ve Di rector
Please also print or type name: Joe Valenti ne	
ORGANIZATION NAME: (if applicable) North Sound Behavioral Health Administrative Services	DATE Organi zat i on

ATTACHMENT 5

Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form

This Contract is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how federal funds are spent.

To comply with the act and be eligible to enter into this contract, your organization must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If you do not already have one, you may receive a DUNS® number free of charge by contacting Dun and Bradstreet at www.dnb.com. Required Information about your organization and this contract will be made available on USASpending.gov by HCA as required by P.L. 109-282. As a tool to provide the information, HCA encourages registration with the Central Contractor Registry (CCR) because less data entry and re-entry is required by both HCA and your organization. You may register with CCR on-line at <https://www.uscontractorregistration.com/>.

CONTRACTOR

Legal Name	DUNS Number												
Principle Place of Performance	Congressional District												
3b. City	State												
3d. Zip+4	Country												
Are you registered in CCR (https://www.uscontractorregistration.com/)? <input type="checkbox"/> YES (skip to page 2. Sign, date and return) <input type="checkbox"/> NO													
<p>In the preceding fiscal year did your organization:</p> <p>a. Receive 80% or more of annual gross revenue from procurement federal contracts, Subcontracts, grants, loans, sub-grants, and/or cooperative agreements; and</p> <p>b. \$25,000,000 or more in annual gross revenues from federal procurement contracts, Subcontracts, grants, loans, subgrants, and/or cooperative agreements; and</p> <p>c. The public does not have access to information about the compensation of the executives through periodic reports filed with the IRS or the Security and Exchange Commission per 2 CFR Part 170.330</p> <p><input type="checkbox"/> NO (skip the remainder of this section - Sign, date and return)</p> <p><input type="checkbox"/> YES (You must report the names and total compensation of the top 5 highly compensated officials of your organization).</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 65%;">Name Of Official</th> <th style="width: 35%;">Total Compensation</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> </tr> <tr> <td>2.</td> <td></td> </tr> <tr> <td>3.</td> <td></td> </tr> <tr> <td>4.</td> <td></td> </tr> <tr> <td>5.</td> <td></td> </tr> </tbody> </table>		Name Of Official	Total Compensation	1.		2.		3.		4.		5.	
Name Of Official	Total Compensation												
1.													
2.													
3.													
4.													
5.													
<p>Note: "Total compensation" means the cash and noncash dollar value earned by the executive during the sub-recipient's past fiscal year of the following (for more information see 17 CFR 229.402 (c) (2))</p>													

By signing this document, the Contractor Authorized Representative attests to the information.

HCA will not endorse the Contractor's sub-award until this form is completed and returned.

Signature of Contractor Authorized Representative	Date
---	------

FOR HEALTH CARE AUTHORITY USE ONLY

HCA Contract Number: K
Sub-award Project Description (see instructions and examples below)

Instructions for Sub-award Project Description:

In the first line of the description provide a title for the sub-award that captures the main purpose of the Subrecipients work. Then, indicate the name of the Subrecipient and provide a brief description that captures the overall purpose of the sub-award, how the funds will be used, and what will be accomplished.

Example of a Sub-award Project Description:

Increase Healthy Behaviors: Educational Services District XYZ will provide training and technical assistance to chemical dependency centers to assist the centers to integrate tobacco use into their existing addiction treatment programs. Funds will also be used to assist centers in creating tobacco free treatment environments.

ATTACHMENT 6**Federal Award Identification for Subrecipients (reference 2 CFR 200.331)
PATH**

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	North Sound BHASO
(ii) Subrecipient's unique entity identifier; (DUNS)	958386666
(iii) Federal Award Identification Number (FAIN);	X06SM083702-01
(iv) Federal Award Date (see §200.39 Federal award date);	09/17/2020
(v) Subaward Period of Performance Start and End Date;	10/01/2020 – 9/30/2021
(vi) Amount of Federal Funds Obligated by this action;	\$51,761
(vii) Total Amount of Federal Funds Obligated to the subrecipient;	\$51,761
(xiii) Total Amount of the Federal Award;	\$1,348,405
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	Projects for Assistance in Transition of Homelessness (PATH)
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,	SAMHSA WA State Health Care Authority Keri Waterland, Assistant Director DBHR 626 8th Ave SE; Olympia, WA 98504-5330 Keri.waterland@hca.wa.gov
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	93.150
(xii) Identification of whether the award is R&D; and	<input type="checkbox"/> Yes <input type="checkbox"/> No
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	4% de minimis rate

SCHEDULE A

Statement of Work

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

1 Identify Need

Solicit PATH clients' and public comments and recommendations to identify the service needs of PATH Clients at least annually.

- 1.1 Use information received from this process, PATH project management experience, and other information gained from reliable sources on homelessness to develop and implement an integrated system of PATH services, activities, and housing to accommodate the local needs and circumstances of Homeless individuals; and

PATH services and activities must be consistent with PL 101-645 Title V, Subtitle B, relating to PATH Eligible Clients, and as described in (FOA) No. SM-20-F2, previously provided to the Contractor and incorporated herein by this reference.

2 Provide Intended Use Plan (IUP) Services

Provide services and activities described in Exhibit A, *Local Provider Intended Use Plan*, within the amounts and categories listed in the HCA approved Contractor IUP Budget table.

- 2.1 The IUP shall be the basis of the Contractor's, and any HCA-approved subcontractors' PATH services and activities using PATH Funds under this Contract.
- 2.2 Services shall be culturally competent, professional, and effective.
- 2.3 Services shall be provided in the least intrusive manner in locations where PATH Eligible individuals may be found and served.
- 2.4 The number of people to be served (contacted) are listed in the Client Information section of Exhibit A: *Local Provider Intended Use Plan*. Provide the services and activities described in the IUP, attached as Exhibit A, *Local Provider Intended Use Plan*.
- 2.5 Achieve or exceed national PATH Government Performance and Results Act (GPRA) performance measures in delivery and costs of services – see Exhibit B, *Center for Mental Health Services Government Performance and Results Act Performance Measures*, as established in Exhibit A, *Local Provider Intended Use Plan*.
- 2.6 Maintain Staffing levels described in Exhibit A, *Local Provider Intended Use Plan*.
- 2.7 Proposed revisions to the IUP, or any HCA-approved successor IUP, must be submitted to the HCA Contract Manager listed on page one (1) of this Contract, when proposed revisions reflect substantial changes in PATH services and activities funded under this Contract.

- 2.7.1 Revised IUPs are subject to approval by HCA prior to implementation;
- 2.7.2 Proposed changes must be submitted to HCA for consideration and approval, at least sixty (60) days before implementation; and
- 2.7.3 Changes to the IUP approved by HCA in writing shall be incorporated by reference into this contract, and shall supersede any previous versions of the IUP.

2.8 Intended Use Plan Requirements

- 2.8.1 Annual submission to HCA in the form of an IUP by an HCA-established date, which shall be communicated to the Contractor to enable HCA to meet the federal timeline for responding to the annual federal RFA/FOA for PATH funds;
- 2.8.2 Each IUP must provide a projected summary of performance in the following outcome measures:
 - 2.8.2.1 Number of homeless adults to be contacted;
 - 2.8.2.2 Number of contacted homeless persons with serious mental illness who become enrolled in PATH services;
 - 2.8.2.3 Number of adult persons contacted using PATH funds that are literally homeless;
 - 2.8.2.4 Number of enrolled PATH individuals who will receive community mental health services;
 - 2.8.2.5 Number of persons referred to and who will attain housing; and
 - 2.8.2.6 Number of persons referred to and who will attain substance use disorder treatment services.
 - 2.8.2.7 Number of staff trained in SOAR
 - 2.8.2.8 Budget and Budget detail/narrative.

3 Eligibility Screening

Ensure Enrolled PATH Clients are screened for eligibility for all possible benefits, including, but not limited to the following:

- 3.1 Services under the PIHP or comparable services structures, including but not limited to emergency, psychiatric, medical, residential, employment, and community support services;
- 3.2 Housing services and resources;
- 3.3 Veterans' services;

- 3.4 Supplemental Security Income/Social Security Disability Insurance (SSI/SSDI) or other disability and financial benefits;
- 3.5 American Indian benefits;
- 3.6 Economic services;
- 3.7 Medical services;
- 3.8 Substance Use Disorder treatment services; and
- 3.9 Vocational rehabilitation services.

4 Priority Populations

- 4.1 Give special consideration to services for veterans, and strongly encourage subcontractors to work closely with entities that demonstrate effectiveness in serving homeless veterans
- 4.2 SAMHSA strongly encourages PATH sites to prioritize services for the chronically homeless population.
- 4.3 PATH services should be focused on Outreach efforts to individuals who are homeless or chronically homeless.

5 Documentation

- 5.1 Maintain individual client service records for Enrolled PATH Clients, where each client service record shall contain at a minimum:
 - 5.1.1 All contacts between a PATH-funded worker or workers and an individual who is potentially PATH eligible or enrolled in PATH must be entered into HMIS.
 - 5.1.2 A statement of the presenting problem(s) as described by the Enrolled PATH Client, as reported by the referral source and as assessed by the screener;
 - 5.1.3 Documentation of homelessness or chronic homelessness;
 - 5.1.4 The context of the referral;
 - 5.1.5 The condition and functioning of the Enrolled PATH Client at the time of initial assessment and subsequently;
 - 5.1.6 The history and symptoms of the Enrolled PATH Client's Mental Illness reported and observed;
 - 5.1.7 An assessment of each PATH Client's basic needs, including legal and safety issues, cultural issues, and Substance Use Disorder issues, as appropriate;

- 5.1.8 An assessment of the Enrolled PATH Client's mental health and/or Co-Occurring mental health and Substance Use Disorder service needs
- 5.1.9 A service plan; and
- 5.1.10 Regular notation of PATH client progress service plan accomplishment, including transfer to other mainstream services.
- 5.2 Cooperate with the federally mandated transition to use of Homeless Management Information System (HMIS) data standards and submit PATH service data in accordance with state and federal requirements. Participate in HMIS data collection activities and submit client service data electronically. SAMHSA expects client data entry into HMIS in a timely manner in order to achieve the most positive outcomes for clients. Each HMIS will have its own policies and procedures regarding timeliness of data entry for end users.
- 5.3 Submit, within fourteen (14) calendar days, copies of any review reports of approved subcontractors who conduct PATH activities and any documentation related to monitoring, especially in the event that corrective action is indicated or imposed
- 5.4 The Contractor shall provide the following reports:

5.4.1 Annual Report/IUP:

The Annual Report/IUP must comply with the report requirements below, some of which may be waived in writing by DBHR for purpose of this Contract.

- 5.4.1.1 Analysis of performance based upon the IUP and upon factors that have affected the local PATH project(s). This report shall include measures taken to maintain and improve the integrity of PATH project(s);
- 5.4.1.2 Submit through the SAMHSA required annual report database (PATH PDX) aggregate client service data consistent with the national "PATH Annual Report Manual," developed by SAMHSA's Homeless and Housing Resources Network and the Center for Mental Health Services (CMHS) Government Performance and Result Act (GPRA) Performance Measures, attached as Exhibit C;
- 5.4.1.3 Respond to SAMHSA Data Checks associated with warnings in the Annual Report data system called PATH PDX. SAMHSA reviews these data check measures each year and may request additional information to assist in evaluating the PATH program and reason why the GPRA measurement was not met. A list of current data checks is listed below. The Data Check measurements are as follows:
 - 5.4.1.3.1 Zero individuals contacted = 0;
 - 5.4.1.3.2 One hundred percent of persons contacted through outreach became enrolled in PATH;

- 5.4.1.3.3 Percentage of eligible persons contacted who became enrolled in PATH is less than 46 percent*;
 - 5.4.1.3.4 Number of persons enrolled has decreased by more than 50 percent since the previous year or increased by more than 100 percent since the previous year;
 - 5.4.1.3.5 Percentage of PATH-enrolled individuals who received community mental health services is less than 53 percent of the GPRA Measure;
 - 5.4.1.3.6 Number of PATH-enrolled individuals who are 17 years old or younger is greater than zero; and
 - 5.4.1.3.7 Sum of “Client refused” and “Data not collected” categories for each demographic data element (“Unknown” category for #28f) is greater than 10 percent of the total number of persons enrolled in PATH (#15).
- 5.5 The contractor will provide a federal financial report to the DBHR, annually, no later than 60 days after the Agreement End Date, using the object class categories of Federal Standard Form 424A and HCA approved Contractor IUP Budget table.
- 5.6 The Contractor shall complete reports according to the time schedules designated, and/or communicated by DBHR. Failure to submit required reports within the time specified may result in one or more of the following:
- 5.6.1 Withholding of current or future payments;
 - 5.6.2 Withholding of additional awards for a project; and
 - 5.6.3 Suspension or termination of this Contract.
- 5.7 The Contractor shall retain reporting-related records and provide access to the records for the time period specified in 45 CFR Part 74, Subpart D, or 45 CFR 92.42.
- 5.8 Financial and programmatic records, supporting documents, statistical records, and all other records of the Contractor or subcontractor that are required by the terms of this Contract or a subcontract, or may reasonably be considered pertinent to this Contract or subcontract must be retained.

6 Miscellaneous Other Requirements

- 6.1 Contractors must strongly encourage subcontractors to provide a smoke-free workplace and promote abstinence of all tobacco products
- 6.2 Continuum of Care Committees

- 6.2.1 Participate in the planning and collaboration of local continuum of care committees affecting PATH Clients.
- 6.2.2 Strongly encourage subcontractors to participate in the planning and collaboration of local continuum of care committees.
- 6.3 The Contractor shall comply with all requirements, including employment standards, detailed in 45 CFR Part 76, and RFA # SM-18-F2.

7 Consideration

- 7.1 General consideration guidelines specify that the contractor must perform the following:
 - 7.1.1 Achieve or exceed national PATH Government Performance and Results Act (GPRA) performance measures in delivery and costs of services – see Exhibit C, *Local Match Certification Form*, as established in Exhibit A, *Local Provider Intended Use Plan*.
 - 7.1.2 Maintain records that identify the source and usage of funds associated with the provision of Housing Services.
 - 7.1.3 Be legally and financially responsible for all aspects of PATH services and activities under this Contract, including subcontracted agencies .
 - 7.1.4 Ensure that if a religiously-affiliated organization receives PATH funds that the PATH services are separate in either time or location of services that are inherently religious in nature. If a PATH enrollee choses to not be served by that organization because of their religious affiliation they must be referred to a different service provider.
 - 7.1.5 Ensure no less than the required non-federal match is contributed by Contractor's and subcontractor's sources as detailed in Section 5, Non-Federal Match Contributions.
- 7.2 Requirements, Conditions, and Limitations for PATH Funds.
 - 7.2.1 The Contractor shall not expend more than twenty percent (20%) of PATH Funds under this Contract for Housing Services, in accordance with the requirements of RFA # SM-18-F2. Grantees must track the costs in this category with records demonstrating that the 20% cap has not been exceeded. This includes:
 - 7.2.1.1 Minor renovation, expansion, and repair of housing;
 - 7.2.1.2 Planning of housing;
 - 7.2.1.3 Technical assistance in applying for housing assistance;
 - 7.2.1.4 Improving the coordination of housing services;

- 7.2.1.5 Security deposits;
- 7.2.1.6 The costs associated with matching eligible homeless individuals with appropriate housing situations; and
- 7.2.1.7 One-time rental payments to prevent eviction.
- 7.2.2 Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders.
- 7.2.3 The Contractor shall use PATH Funds to supplement, not supplant, existing services to individuals with Serious Mental Illness or Co-Occurring Serious Mental Illness and Substance Use Disorders, and who are Homeless or at Imminent Risk of becoming Homeless.
- 7.2.4 The Contractor shall indicate clearly when issuing statements, press releases, requests for proposal, bid solicitations, and other documents describing projects or programs funded in whole or in part with PATH Funds:
 - 7.2.4.1 The percentage of the total costs of the program or project financed with PATH Funds;
 - 7.2.4.2 The dollar amount of PATH Funds for the program or project; and
 - 7.2.4.3 The percentage and dollar amount of the total costs of the program or project that will be financed by non-governmental sources.
- 7.2.5 The Contractor shall use any program income generated under this Contract in accordance with the additional cost alternative of 45 CFR Part 92.25 to further the objectives of the PATH program. Program income must be reported on the federal financial report, and used only for allowable costs as set forth in the applicable federal cost circulars.
- 7.2.6 The Contractor shall not use PATH Funds under this Contract to support lobbying activities to influence proposed or pending Federal or State legislation or appropriations. This prohibition is related to the use of federal grant funds and is not intended to affect Washington State's right, or that of any other organization, to petition Congress or any other level of Government through the use of other resources.
 - 7.2.6.1 The Contractor shall adhere to the following restrictions on Grantee Lobbying – Appropriations Act Section 503:
 - 7.2.6.1.1 No part of any funding under this Contract shall be used, other than for a normal and recognized executive-legislative

relationship, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any state legislature, except in the presentation to the Congress or any state legislative body itself; and

7.2.6.1.2 No part of any funding under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or state legislature.

7.3 Requirements for Non-Federal Match Contributions

7.3.1 The Contractor shall contribute a required minimum (33.333%) of non-federal match funds based upon the Total PATH award under this Contract and stated in the table below.

7.3.2 The Contractor shall contribute non-federal match as required according to the following table:

7.3.2.1 Table 1 – Non-Federal Match Contributions

FFY 2019 IUP Budget as submitted in PATH Application	Match Required 33.333%	Total 12 Month Award
\$51,761	\$17,254	\$69,015

7.3.3 The PATH Award to Contractor is for PATH services and activities, and for HMIS reporting capability used to participate in PATH data collection activities; and

7.3.4 The contractual award of PATH Funds under this Contract equals the “PATH Award to Contractor” listed in HCA approved Contractor IUP Budget table.

7.3.5 The Contractor shall ensure that all non-federal match contributions are in accordance with federally-approved PATH services and activities as stated in RFA # SM-18-F2 and in accordance with the IUP.

7.3.6 The Contractor shall submit aggregate non-federal match contribution amounts with invoices for PATH Fund reimbursement, in accordance with the HCA approved Contractor IUP Budget table.

7.3.6.1 Non-federal match contributions shall be reported in the aggregate and clearly identified on each billing invoice;

- 7.3.6.2 Supporting documentation of non-federal match amounts shall be maintained in sufficient detail to demonstrate match amounts contributed by budget category;
- 7.3.6.3 Supporting documentation shall be made available to the DBHR upon request; and
- 7.3.6.4 The Contractor shall annually certify their non-federal match contributions.

8 Subcontracting

- 8.1 The Contractor shall not subcontract any services or activities under this Contract with any agency that:
 - 8.1.1 Has a policy of excluding individuals from mental health services due to the existence or suspicion of Substance Use Disorder; and
 - 8.1.2 Has a policy of excluding individuals from Substance Use Disorder services due to the existence or suspicion of Mental Illness
- 8.2 The Contractor shall obtain prior approval before entering into any subcontracting arrangement. In addition, the BHO shall submit to the HCA PATH Program Administrator identified on Page 1 of the contract at least one of the following for review and approval purposes:
 - 8.2.1 Copy of the proposed subcontract to ensure it meets all HCA requirements; or
 - 8.2.2 Copy of the BHO's standard contract template to ensure it meets all requirements and approve only subcontracts entered into using that template; or
 - 8.2.3 Certify in writing that the subcontractor meets all requirements under the contract and that the subcontract contains all required language under the contract, including any data security, confidentiality and/or Business Associate language, as appropriate.
- 8.3 The Contractor shall submit, within fourteen (14) calendar days, copies of any review reports of approved subcontractors who conduct PATH activities and any documentation related to monitoring, especially in the event that corrective action is indicated or imposed.
- 8.4 The Contractor shall monitor approved subcontractors programmatically and fiscally annually. Copies of reports generated from such activities will be submitted within 30 days of their completion and no later than September 30, 2021.

SCHEDULE B

Service Definitions for PATH-Funded Services

GUIDING PRINCIPLES OF PATH ADMINISTRATION AND MANAGEMENT

The PATH program is a vital resource in communities as they seek to reduce and end Chronic Homelessness. PATH programs across the country have led the way in developing and perfecting methods of outreach and engagement that are effective with people who have Serious Mental Illnesses/Co-Occurring Disorders and who are Homeless. PATH programs serve as the front door to Continuum of Care services and to mainstream mental health, primary health care and substance abuse treatment service systems.

In order for PATH to fulfill this role, we urge State Contracts to guide the activity of providers towards services to Homeless persons and active participation in the Continuum of Care. For states that have used PATH Funding for people who are at risk of Homelessness, we understand that providing services primarily to persons who are Homeless will mean a change in the focus of PATH Funded programs; and this voluntary shift will be dependent on overall policy and administrative practice in each state.

GUIDING PRINCIPLES

Person-centered services: The PATH program is committed to services that meet the needs and preferences of people who are Homeless and who have mental illnesses/Co-Occurring Disorders. Services are effective only if they meet needs identified by the individual. Service plans must be developed in partnership with individuals receiving services.

Culturally competent services: The PATH program is committed to meeting needs and preferences of individuals within the context of culture. For this to happen in a meaningful way, services must be offered in accordance with individually appropriate language, customs and cultural norms.

Consumer-run services: The history of the PATH program proves the effectiveness of services provided by people who have “been there”. Individuals who have achieved recovery serve as powerful examples, and consumer-run services are a strong tool in our efforts to address homelessness.

Commitment to quality: State PATH Contracts are committed to helping providers achieve high quality in all areas of service provision. Encouragement of evidence-based and exemplary practices within Homeless services and mainstream systems is part of this strategy.

SERVICE DEFINITIONS

Outreach

The process of bringing individuals into treatment who do not access traditional services. Effective outreach utilizes strategies aimed at engaging persons into the needed array of services, including identification of individuals in need, screening, development of rapport, offering support while assisting with immediate and basic needs, and referral to appropriate resources. Outreach results in increased access to and utilization of community services by people who are Homeless and have mental illnesses.

Active outreach is defined as face-to-face interaction with Homeless people in streets, shelters, under bridges, and in other non-traditional settings. In active outreach, workers seek

out Homeless individuals.

Outreach may include methods such as distribution of flyers and other written information, public service announcements, and other indirect methods.

Outreach through the 'Services' project set up in HMIS may also include "in-reach", defined as when outreach staff persons are placed in a service site frequented by Homeless people, such as a shelter or community resource center, and direct, face to face interactions occur at that site. In this form of outreach, Homeless individuals seek out outreach workers.

The location that the individual slept on the night before the PATH worker engaged with him/her will determine if the contact should be counted as 'outreach' or 'services'. Outreach is only counted when the individual stayed in a place not meant for human habitation.

Screening and Diagnostic Treatment

A continuum of assessment services that ranges from brief eligibility screening to comprehensive clinical assessment.

Habilitation and Rehabilitation Services

Community-based treatment and education services designed to promote maximum functioning, a sense of well-being, and a personally satisfying level of independence for individuals who are Homeless and have mental illnesses/co-occurring disorders.

Community Mental Health Services

Community-based supports designed to stabilize and provide ongoing supports and services for individuals with mental illnesses/co-occurring disorders or dual diagnoses. This general category does not include case management, alcohol or drug treatment and/or habilitation and rehabilitation, since they are defined separately in this document.

Alcohol or Drug Treatment

Preventive, diagnostic, and other outpatient treatment services as well as support for people who have a psychological and/or physical dependence on one or more addictive substances, and a co-occurring mental illness.

Staff Training

Materials, packages or programs designed to increase the knowledge or skills of individuals who work in shelters, mental health clinics, and substance abuse treatment programs and other sites regarding the needs of the target population, job related responsibilities and service delivery strategies to promote effective services and best practices.

Case Management

Services that develop case plans for delivering community services to PATH eligible recipients. The case plans should be developed in partnership with people who receive PATH services to coordinate evaluation, treatment, housing and/or care of individuals, tailored to individual needs and preferences. Case Managers assist the individual in accessing needed services, coordinate the delivery of services in accordance with the case plan, and follow-up and monitor progress. Activities may include financial planning, access to entitlement assistance, representative payee services, etc.

Supportive and Supervisory Services in Residential Settings

Services provided in residential settings that are designed to support individuals during their transition into mainstream services.

Housing Services

Specialized services designed to increase access to and maintenance of stable housing for PATH-enrolled individuals who have significant or unusual barriers to housing. These services are distinct from and not part of PATH-funded case management, supportive and supervisory services in residential settings, or housing assistance referral activities.

Minor Renovation

Services or resources provided to make essential repairs to a housing unit in order to provide or improve access to the unit and/or eliminate health or safety hazards.

Planning of Housing

Activities related to the analysis and formulation of a detailed set of action steps, timelines, and resources necessary to create or expand housing for the target population.

Technical Assistance in Applying for Housing Services

Targeted training, guidance, information sharing, and assistance to, or on behalf of, PATH-enrolled individuals who encounter complex access issues related to housing.

Improving the Coordination of Housing Services

The process of systematically analyzing interagency interactions among housing service providers, developing relevant information, and informing appropriate authorities of viable alternatives for selection of the most effective combination of available resources to best meet the residential needs of the target population.

Security Deposits

Provision of funds for PATH-enrolled individuals who are in the process of acquiring rental housing but who do not have the assets to pay the first and last month's rent or other security deposits required to move in.

Costs Associated with Matching Eligible Homeless Individuals with Appropriate Housing Situations

Expenditures made on behalf of PATH-enrolled individuals to meet the costs, other than security deposits and one-time rental payments, of establishing a household. These may include items such as rental application fees, furniture and furnishings, and moving expenses. These may also include reasonable expenditures to satisfy outstanding consumer debts identified in rental application credit checks that otherwise preclude successfully securing immediately available housing.

One-Time Rental Payments to Prevent Eviction

One-time rental payments are made for PATH-enrolled individuals who cannot afford to make the payments themselves, who are at risk of eviction without assistance and who qualify for these services on the basis of income or need.

Referrals for Primary Health Services, Job Training, Education Services and Relevant Housing Services

Services intended to link persons to primary health care, job training, income supports, education, housing, and other needed services not directly provided by the PATH program or individual PATH providers.

SCHEDULE C

PATH Program HMIS Manual – 2020

Please note: *Schedule C is not attached hereto but is incorporated by reference and is available upon request from the HCA Contract Manager listed on page one (1) of this Contract.*

SCHEDULE D

PATH Annual Report Manual

Please note: *Schedule D is not attached hereto but is incorporated by reference and is available upon request from the HCA Contract Manager listed on page one (1) of this Contract.*

EXHIBIT A

Local Provider Intended Use Plan (IUP)

Please note: *Exhibit A is not attached hereto but is incorporated by reference and is available upon request from the HCA Contract Manager listed on page one (1) of this Contract.*

EXHIBIT B

CMHS Government Performance and Results Act Performance Measures (GPRA)

OUTPUTS AND OUTCOMES TABLE				
2020-2021 Projects for Assistance in Transition From Homelessness (PATH) GPRA Measures				
Measure	a) Fiscal Year (FY) & Most Recent Result b) Target for Record Result c) (Summary of Result)	FY 2020 Target	FY 2021 Target	FY 2021 Target FY 2020 Target
3.4.15 - Percentage of enrolled homeless persons in the PATH program who receive community mental health services (Intermediate Outcome).	a) FY 2018: 65% b) Target: 54% c) (Target Exceeded)	65%	65%	Maintain
3.4.16 – Number of homeless persons contacted (Outcome).	a) FY 2018: 121,561 b) Target: 174,978 c) (Target Not Met, but Improved)	120,048	120,048	Maintain
3.4.17 – Percentage of contacted homeless persons with serious mental illness who become enrolled in services (Outcome).	a) FY 2018: 58% b) Target: 57% c) (Target Exceeded)	58%	58%	Maintain
3.4.20 – Number of PATH providers trained on SSI/SSDI Outreach, Access, Recovery (SOAR) to ensure eligible homeless clients are receiving benefits (Output).	a) FY 2019: 2,214 b) Target: 2,647 c) (Target Not Met)	2,214	2,214	Maintain

EXHIBIT C**Local Match Certification**

This form must be completed and submitted to the HCA Contract Manager listed on page one (1) of this Agreement with the final billing invoice for this Contract.

I, _____, certify that local funds and/or in-kind items
PRINT NAME

_____ were provided in
TYPE AND SOURCE OF FUNDS/ITEMS

the amount of \$ _____ And were used to match federal funds paid
DOLLAR AMOUNT

during the time period of _____ through _____ for
START DATE END DATE

TYPE OF CONTRACT/SERVICE

NAME OF ENTITY		
NAME OF ENTITY'S AUTHORIZED AGENT		HCA CONTRACT #
AUTHORIZED REPRESENTATIVE'S SIGNATURE	TITLE OR POSITION	
PRINTED NAME OF AUTHORIZED REPRESENTATIVE	TELEPHONE NUMBER	DATE COMPLETED

INSTRUCTIONS

NAME	Printed name of the local entity's agent authorized to complete certification form.
TYPE AND SOURCE OF FUNDS	The type and source of local funds used. In-kind sources need specific identification showing who donated the items(s). E.g.: volunteers, building use, etc.
DOLLAR AMOUNT	Dollars that were used to match federal funds paid during the time period. Dollars reported must agree correlate with amount on the final billing.
TIME FRAME	Period of time during which the services were provided.
TYPE OF CONTRACT / SERVICE	Services eligible for Federal Financial Participation.
NAME OF ENTITY	Name of local entity that is providing the local funding match.
NAME OF AUTHORIZED AGENT	Name of local entity that is authorized to act in behalf of local entity.
HCA CONTRACT NUMBER	The HCA contract number of the local entity.
AUTHORIZED REPRESENTATIVE'S SIGNATURE	The signature of the local entity authorized representative.
TITLE OR POSITION	Title or position of local entity authorized representative.
PRINTED NAME	Printed name of authorized representative.
TELEPHONE NUMBER	Telephone number of authorized representative
DATE COMPLETED	Date when form was completed.