

PROFESSIONAL SERVICES CONTRACT #2017-BH-21

between

CLARK COUNTY

P.O. Box 5000, Vancouver, WA 98666

and

A BETTER WAY COUNSELING


601 E. McLoughlin Blvd., Vancouver, WA 98663

Programs/Services Being Funded:	Domestic Violence Treatment Services
Contract Period:	January 1, 2017 through December 31, 2017
Contract Amount:	\$12,000
Funding Source:	Fund 1954
DUNS Number:	008320398


Contractor Program Contact	Contractor Fiscal Contact	County Program Contact	County Fiscal Contact
Debbie Tomasovic 360-281-6824 abetterwaycounseling@live.com	Debbie Tomasovic 360-281-6824 abetterwaycounseling@live.com	DeDe Sieler 360-397-2075 x 7823 dede.sieler@clark.wa.gov	John Jokela 360-397-2075 x 7883 john.jokela@clark.wa.gov

By signing below, Clark County, hereinafter referred to as the “County,” and A Better Way Counseling, hereinafter referred to as the “Contractor,” agree to the terms of this Contract as well as the County’s General Terms and Conditions which are incorporated herein by reference with the same force and effect as if they were incorporated in full text. The full text version of the County’s General Terms and Conditions are available at <https://www.clark.wa.gov/community-services/general-terms-and-conditions>. Hard copies will be provided by Clark County upon request.

FOR CLARK COUNTY:

DocuSigned by:

 12/21/2016
FB5426E8B9FA42C...
 Mark McCauley, County Manager

FOR A BETTER WAY COUNSELING:

DocuSigned by:

 12/19/2016
3B520D796F7D4CF...
 Debbie Tomasovic, Clinical Director

APPROVAL AS TO FORM ONLY:

DocuSigned by:

 12/19/2016
F6B2CB11526542F...
 Amanda Migchelbrink
 Deputy Prosecuting Attorney

BUDGET SUMMARY
CONTRACT #2017-BH-21
A BETTER WAY COUNSELING

STATEMENT OF WORK	PAYMENT TYPE	REVENUE SOURCE	BUDGET
Domestic Violence Treatment Services	Fee-for-Service	Local Sales Tax Fund 1954	\$12,000

**STATEMENT OF WORK
CONTRACT #2017-BH-21
A BETTER WAY COUNSELING**

STATEMENT OF WORK	PAYMENT TYPE	REVENUE SOURCE	BUDGET
Domestic Violence Treatment Services	Fee-for-Service	Local Sales Tax Fund 1954	\$12,000

1. PURPOSE

The Contractor shall provide Domestic Violence Perpetrator treatment to therapeutic specialty court participants pursuant to RCW 25.50.150 and WAC 388-60.

2. QUALIFICATIONS

- 2.1. **Washington State Certification:** The Contractor shall provide proof of current certification by the State of Washington Department of Social and Health Services as qualified for the provision of domestic violence perpetrator treatment. The Contractor shall contact the County immediately if there is any change in certification or license status of the agency and or staff member. Failure to maintain certification will be grounds for termination of this Contract.
- 2.2. **Accessibility:** The Contractor shall provide services in compliance with the Americans with Disabilities Act. Services will be provided in Clark County.
- 2.3. **Court Participation:** The Contractor shall contact the court coordinator in advance to ensure that the court will be conducted on the day when attendance is planned. Ongoing court attendance by the Contractor is encouraged but not required.
- 2.4. **Document Submission:** The Contractor shall submit to the County, prior to the provision of services, its definition of domestic violence used when conducting evaluations/assessments, copies of policies and procedures, screening tools, and an outline of the Domestic Violence Perpetrator Treatment curriculum. Policies and procedures should include, but are not limited to, handling absences and/or any make-up group sessions as it complies with state statute, discharging clients, non-discrimination, safety of victims, and grievance and complaints. If these documents have been submitted in prior years, the Contractor shall provide any updates to the County within 30 days of changes to the documents referenced above.
- 2.5. **Background Checks:** The Contractor shall conduct, or ensure, a background check for all staff members, subcontractors or volunteers who have unsupervised access to children, adolescents or vulnerable adults. Revised Code of Washington (RCW) 43.43 and Washington Administrative Code (WAC) 388-805-200 (2)

require criminal background checks (CBCs) when employing staff members, including volunteers and subcontractors, who have unsupervised access to children, adolescents, vulnerable adults, and persons who have developmental disabilities.

3. SERVICES

The Contractor shall provide Washington State licensed or certified domestic violence perpetrator treatment services that meet all of the requirements of RCW 26.50.150 and WAC Chapter 388-60 on a fee-for-service basis and as established herein. Services shall include:

- 3.1. Conducting an individual, complete clinical intake and assessment interview with each client who has been accepted into the treatment program. (WAC 388-60-0165)
- 3.2. Provision of weekly group treatment sessions. (WAC 388-60-0075; WAC 388-60-0255 (3)(a))
- 3.3. Conducting an individual session when the client requests to decrease from weekly sessions to monthly sessions at a rate of \$60 per session. The client is responsible for a payment of ten dollars and the Contractor shall bill the remainder to the County.
- 3.4. Provision of monthly treatment sessions that meet the requirements of WAC 388-60-0255 (3)(b).
- 3.5. Provision of ongoing case management and monitoring in domestic violence perpetrator treatment as mandated by state statute, applicable administrative rule and direction from the therapeutic specialty court. Satisfactory performance of the case management/monitoring function includes attendant data entry/reporting.
- 3.6. Maintenance of documentation of attendance and of services.
- 3.7. Provision of ongoing assistance to the therapeutic specialty court team for identifying, screening, recruiting, and referring potential participants to domestic violence perpetrator treatment program.
- 3.8. Making a good faith effort to participate with the therapeutic specialty court team in program policy-making meetings to provide input, education and updates about best practices as it pertains to domestic violence treatment. These policy meetings occur on an as-needed basis as a way to stay current and make team decisions in regard to program design changes.
- 3.9. Conducting an individual session, at a rate of \$60 per session, prior to the client wanting the “No Contact Order” rescinded. The client is responsible for a payment of ten dollars and the Contractor shall bill the remainder to the County.

- 3.10. Conducting an individual session, at a rate of \$60 per session, prior to completing Domestic Violence treatment as an exit interview or plan. The client is responsible for a payment of ten dollars and the Contractor shall bill the remainder to the County.
- 3.11. Notifying the therapeutic specialty court team and the victim(s) within three days of terminating a client who does not satisfactorily complete the Domestic Violence treatment program, as required by WAC 388-60-0305 (1)(4).
- 3.12. Provision of a letter and/or certificate of completion of Domestic Violence Perpetrator Treatment at no cost to the DVC client, in accordance to WAC 388-60-0275(1), and to the courts and the victim(s), when all the requirements have been fulfilled.

4. REPORTING

- 4.1. The Contractor shall provide the Court Coordinator with one copy of each initial evaluation/clinical intake within one week of the evaluation or intake.
- 4.2. The Contractor shall provide the Court Coordinator with weekly treatment reports on the progress and compliance level of each participant. Each weekly report shall include the following:
 - Name of participant
 - Attendance at required session(s)
 - Overall attitude and/or behavior in group, group topic, and number of total groups attended

Due to the frequency with which these participants are ordered to appear in court, all reports must be provided to the Court Coordinator no later than every Monday by 9:00 am.

- 4.3. Reports may be hand-delivered, faxed, or emailed to:
 - Clark County District Court
 - ATTN: Coordinator
 - 1200 Franklin Avenue (office behind G-2 Courtroom)
 - Vancouver, WA 98660
 - Phone: 360-397-2431
 - Fax: 360-759-7053

5. PAYMENT

- 5.1. Fees: The Contractor may only bill for fees as set forth in this Contract. Fees beyond those described in this Contract will not be paid.
 - 5.1.1. Client fee participation: Clients are only responsible for fees delineated in this Contract. Each therapeutic specialty court client shall pay a fee of \$5.00 for initial treatment orientation and/or intake process and for all

attended group sessions. The client's fee for individual sessions is \$10.00. If the client does not pay the fee, the Contractor shall not allow the client to attend the session and will report an "unexcused absence" to the therapeutic specialty court.

5.1.2. The fees to be charged to the County are:

5.1.2.1. Sixty dollars for each intake/assessment that meets the requirements of WAC 388-60-0165; one per client.

5.1.2.2. Thirty dollars per client for each weekly session that meets the requirements of WAC 388-60-0075, WAC 388-60-0085 and WAC 388-60-0255 (3)(a). Clients are expected to participate in at least twenty-six (26) consecutive weekly sessions.

5.1.2.3. Thirty dollars per client for each monthly session that meets the requirements of WAC 388-60-0075, WAC 388-60-0085 and WAC 388-60-0255 (3)(b). Clients are expected to participate in at least six (6) consecutive monthly sessions.

5.1.2.4. Sixty dollars per client for Domestic Violence Perpetrator Treatment supplies and/or materials.

5.1.2.5. Sixty dollars per client for each individual session, for up to three individual sessions.

5.2. The Contractor shall submit an invoice by the 15th of each month for services provided in the previous month.

SPECIAL TERMS AND CONDITIONS

1. APPLICABLE REGULATIONS

The Contractor shall provide services in compliance with the Contract, County policies and procedures, related applicable federal and state laws and regulations, and any subsequent legislation and or amendments thereto.

2. CONTRACT PERIOD

Subject to its other provisions, no services are to be provided under this Contract outside the Contract Period shown on the first page unless the Contract is modified in writing and approved by both parties.

3. NOTICES

Any notices permitted or required by this Agreement will be addressed as follows or to such other address as either party may provide to the other:

To Clark County:	Department of Community Services Attn.: Contract Section PO Box 5000 Vancouver, WA 98666-5000
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To Contractor:	A Better Way Counseling Attn.: Clinical Director 601 E. McLoughlin Blvd. Vancouver, WA 98663
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4. SUPPLEMENTAL PAYMENT PROVISIONS

4.1. The County shall make payment to the Contractor based upon the Statements of Work in the Contract and subject to the following provisions which are supplemental to the "Payment Provisions" established in Section 25 of the Department of Community Services' General Terms and Conditions.

4.2. The Contractor shall submit an invoice in accordance with each Statement of Work on or before the 15th of the month following the month the service was provided. Payment to the Contractor will be processed within thirty (30) days of the receipt of a complete and accurate invoice. Invoices are to be submitted with the following items:

- The month/year for which payment is requested
- An invoice number
- The Contract number and the Statement of Work number

- The name and address of the Contractor
 - A payment request form
 - The signature of a duly-authorized individual
- 4.3. For outpatient treatment services, the Contractor will be paid on a fee-for-service basis pursuant to the Clark County Fee Schedule which is attached hereto as Exhibit B and/or any other fees specified in this Contract.
- 4.4. The Clark County Fee Schedule is subject to periodic adjustment based on the rate of inflation and available funding. In the event that the Fee Schedule is adjusted, notice shall be provided to the Contractor by mail or email and will not require a formal contract modification.
- 4.5. If a contract exists between the Contractor and an underinsured patient's insurance company, the following applies: The County will pay the Contractor the amount that is the patient's responsibility according to the patient's insurance plan.
- 4.6. If no contract exists between the Contractor and the insurance company, the following applies: The County will pay for covered and non-covered services at the rates set forth in the Clark County Fee Schedule, Exhibit B, as amended. Any payment provided by the patient's insurance company will be applied against the amount due per the Clark County Fee Schedule. If the amount paid by the insurance company exceeds the rate set forth in the Clark County Fee Schedule, the patient's responsibility shall be zero and there shall be no additional payment from the County.
- 4.7. The Contractor shall maintain and submit adequate records to justify the reimbursements being requested. The Contractor is responsible for controlling admissions to ensure it does not to exceed the amount shown in the Statement of Work.
- 4.8. Unless otherwise specified in this Contract, the County shall not pay any claims for services submitted more than ninety (90) days after the calendar month in which the services were performed.
- 4.9. The Contractor agrees to allow the County to make adjustments to the individual budget lines of this Contract when necessary and in the interests of both parties.
- 4.10. The County will review monthly the utilization of Contract funds. If Contract funds are being underutilized, the County may, at its sole discretion, modify the Contract to reallocate funds and/or reduce the amount of this Contract.
- 4.11. The Contractor shall complete a calendar year closeout process by January 25th of each year billing for all eligible expenses or funds earned during that previous calendar year. This is necessary because the County's fiscal year is based on the calendar year and the County is required to close its fiscal records for each previous calendar year in January.

5. TERMINATION

- 5.1. The award or continuation of this Contract is dependent upon the availability of future funding. The County's payment obligations are payable only and solely from funds both appropriated and otherwise legally available for this Contract.
 - 5.1.1. The absence of initial appropriated or other lawfully-available funds shall render the Contract null and void to the extent funds are not appropriated or available.
 - 5.1.2. If the funds upon which the County relied to establish this Contract are withdrawn, reduced, or limited, or if additional or modified conditions are placed on such funding, the County may terminate this Contract by providing no fewer than ten (10) calendar days written notice to the Contractor. The termination shall be effective on the date specified in the notice of termination.
- 5.2. The County shall have the right to terminate this Contract, in whole or in part, with or without cause, any time by providing no fewer than ten (10) calendar days written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to this Contract, with such exceptions, if any, specified in the notice of termination. The County shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purpose, for all goods delivered, services performed, and obligations incurred prior to the date of termination in accordance with the terms hereof.
- 5.3. Upon termination of this Contract, any unexpended balance of Contract funds will remain with the County. If termination occurs for cause, the Contractor shall immediately, and without notice of presentment, return to the County all funds that were expended in violation of the terms of this Contract.
- 5.4. Any notice required to be given pursuant to the terms of this section shall be in writing and shall be sent by certified or registered mail, return receipt requested, postage prepaid, or by hand delivery, to the receiving party at the address listed on the signature page, or at any other address of which a party has given notice. Notice shall be deemed given on the date of delivery or refusal as shown on the return receipt if delivered by mail, or the date upon which such notice is personally delivered in writing.

Business Associate Agreement
between
Clark County Department of Community Services
and
A Better Way Counseling

This Business Associate Agreement (BAA) and Qualified Service Organization Agreement (QSOA), (the “Agreement”), is entered into between **Clark County**, by and through its Department of Community Services (the “Covered Entity”), and **A Better Way Counseling** (the “Business Associate”).

Recitals

A. Business Associate provides domestic violence treatment services. The provision of these services may, at certain times, involve (i) the use or disclosure of Protected Health Information (as defined below) by Business Associate, (ii) the disclosure of Protected Health Information by Covered Entity (or another business associate of Covered Entity) to Business Associate, or (iii) the creation, receipt, maintenance, or transmission of Electronic Protected Health Information (as defined below) by Business Associate. Accordingly, the use, disclosure, transmission, or maintenance of Protected Health Information by Business Associate is subject to the privacy regulations (the “HIPAA Privacy Regulations”) and the security regulations (the “HIPAA Security Regulations”) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and 45 C.F.R. Parts 160 and 164 with respect to such Services. This Agreement is intended to document the business associate assurances required by the HIPAA Privacy Regulations (at 45 C.F.R. § 164.504(e)), and the HIPAA Security Regulations (at 45 C.F.R. § 164.314(a)).

B. This Agreement will govern the terms and conditions under which the Covered Entity may disclose or have disclosed to Business Associate, and Business Associate may create, use, disclose, maintain, transmit or receive, Protected Health Information on behalf of Covered Entity. This Agreement will also govern the terms and conditions under which Covered Entity may disclose or have disclosed to Business Associate, and Business Associate may create, receive, maintain or transmit, EPHI on behalf of Covered Entity.

Agreement

1. **Definitions.** Capitalized terms used in this Agreement, but not otherwise defined in this Agreement, shall have the same meanings as those terms in the HIPAA Privacy Regulations and the HIPAA Security Regulations. Unless otherwise stated, a reference to a “Section” is to a Section in this Agreement. For purposes of this Agreement, the following terms shall have the following meanings.

1.1 **Breach.** “Breach” shall have the same meaning as the term “breach” in 45 C.F.R. § 164.402.

1.2 Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

1.3 Electronic Protected Health Information or EPHI. “Electronic Protected Health Information” or “EPHI” shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.4 Individual. “Individual” shall mean the person who is the subject of Protected Health Information as provided in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.5 Individually Identifiable Health Information. “Individually Identifiable Health Information” shall have the same meaning as the term “individually identifiable health information” in 45 C.F.R. § 160.103.

1.6 Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.7 Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

1.8 Secretary. “Secretary” shall mean the Secretary of the federal Department of Health and Human Services or that person’s designee.

1.9 Security Incident. “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.

1.10 Unsecured Protected Health Information. “Unsecured Protected Health Information” shall have the same meaning as the term “unsecured protected health information” in 45 C.F.R. § 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

2. Permitted Uses and Disclosures by Business Associate.

2.1 General. Except as otherwise specified in this Agreement, Business Associate may use or disclose PHI to perform its obligations for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the HIPAA Privacy Regulations if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

2.2 Other Permitted Uses. Except as otherwise limited by this Agreement, Business Associate may use PHI it receives or creates in its capacity as a business associate of Covered Entity, if necessary:

2.2.1 for the proper management and administration of Business Associate;

2.2.2 to carry out the legal responsibilities of Business Associate; or

2.2.3 to provide Data Aggregation services to Covered Entity which relate to the health care operations of Covered Entity in accordance with the HIPAA Privacy Regulations.

2.3 Other Permitted Disclosures. Except as otherwise limited by this Agreement, Business Associate may disclose to a third party PHI it receives or creates in its capacity as a business associate of Covered Entity for the proper management and administration of Business Associate, provided that:

2.3.1 The disclosure is required by law; or

2.3.2 Business Associate obtains reasonable assurances from the third party to whom the information is disclosed that (i) the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the third party, and (ii) the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 De-Identified Information. Health information that has been de-identified in accordance with the requirements of 45 C.F.R. §§ 164.514 and 164.502(d) and is therefore not Individually Identifiable Health Information (“De-Identified Information”) is not subject to the provisions of this Agreement. Covered Entity may disclose PHI to Business Associate to use for the purpose of creating De-Identified Information, whether or not the De-Identified Information is to be used by Covered Entity.

3. Obligations and Activities of Business Associate Regarding PHI.

3.1 Limitations on Uses and Disclosures. Business Associate will not use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law.

3.2 Safeguards. Business Associate will use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

3.3 Mitigation. Business Associate will mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

3.4 Reporting. Business Associate will report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.

3.5 Agents and Subcontractors. Business Associate will ensure that any agent, including any subcontractor, to whom Business Associate provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity agrees in writing to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

3.6 Access. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity, Business Associate will make such PHI available to Covered Entity or, as directed by Covered Entity to an Individual, that is necessary for Covered Entity to respond to Individuals’ requests for access to

PHI about them in accordance with 45 C.F.R. § 164.524. Business Associate will provide such PHI in an electronic format upon request by Covered Entity unless it is not readily producible in such format in which case Business Associate will provide Covered Entity a standard hard copy format.

3.7 Amendment of PHI. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity or an Individual, Business Associate will make any requested amendment(s) or correction(s) to PHI in accordance with 45 C.F.R. § 164.526.

3.8 Disclosure Documentation. Business Associate will document its disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.9 Accounting of Disclosures. Within thirty (30) days of receiving a request from Covered Entity, Business Associate will provide to Covered Entity information collected in accordance with Section 3.8 of this Agreement, as necessary to permit Covered Entity to make an accounting of disclosures of PHI about an Individual in accordance with 45 C.F.R. § 164.528.

3.10 Access to Business Associate's Internal Practices. Except to the extent that it violates or interferes with attorney-client privilege, the duty of client confidentiality, or the applicable rules of professional responsibility, Business Associate will make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of (a) PHI received from, or created or received by Business Associate on behalf of, Covered Entity; and (b) EPHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, available to the Secretary or to Covered Entity, in a time and manner designated by the Secretary or reasonably specified by Covered Entity, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Privacy Regulations and HIPAA Security Regulations.

3.11 Breach Notification. Business Associate, following the discovery of a Breach of Unsecured Protected Health Information, shall notify Covered Entity of such breach. Except as otherwise required by law, Business Associate shall provide such notice without unreasonable delay, and in no case later than thirty (30) calendar days after discovery of the Breach.

3.11.1 Notice to Covered Entity required by this Section 3.11 shall include: (i) to the extent possible, the names of the individual(s) whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Breach; (ii) a brief description of what happened including the date of the Breach and the date of the discovery of the Breach, if known; (iii) a description of the types of Unsecured Protected Health Information that were involved in the Breach; (iv) a brief description of what Business Associate is doing or will be doing to investigate the Breach, to mitigate harm to the individual(s), and to protect against further Breaches; and (v) any other information that Covered Entity determines it needs to include in notifications to the individual(s) under 45 C.F.R. § 164.404(c).

3.11.2 After receipt of notice, from any source, of a Breach involving Unsecured Protected Health Information used, disclosed, maintained, or otherwise possessed by Business

Associate or of a Breach, involving Unsecured Protected Health Information, for which the Business Associate is otherwise responsible, Covered Entity may in its sole discretion (i) require Business Associate, at Business Associate's sole expense, to use a mutually agreed upon written notice to notify, on Covered Entity's behalf, the individual(s) affected by the Breach, in accordance with the notification requirements set forth in 45 C.F.R. § 164.404, without unreasonable delay, but in no case later than sixty (60) days after discovery of the Breach; or (ii) elect to provide notice to the individual(s) affected by the Breach.

3.12 Performance of Covered Entity's Obligations. To the extent that Business Associate is to carry out an obligation of Covered Entity under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that would apply to Covered Entity in the performance of such obligation.

4. Obligations of Covered Entity.

4.1 Requested Restrictions. Covered Entity shall notify Business Associate, in writing, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, which permits an Individual to request certain restrictions of uses and disclosures, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4.2 Changes in or Revocation of Permission. Covered Entity will notify Business Associate in writing of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes or revocation may affect Business Associate's use or disclosure of PHI.

4.3 Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Regulations and HIPAA Security Regulations if done by Covered Entity, except to the extent that Business Associate will use or disclose PHI for Data Aggregation or management and administrative activities of Business Associate.

5. Security Restrictions on Business Associate.

5.1 General. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security Regulations.

5.2 Agents; Subcontractors. Business Associate will ensure that any agent, including a subcontractor, to whom Business Associate provides EPHI agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of such EPHI.

5.3 Reporting of Security Incidents. Business Associate shall report to Covered Entity any Security Incident affecting EPHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, of which Business Associate becomes aware. This Section constitutes notice to Covered Entity of routine and ongoing attempts to gain unauthorized access to Business Associate's information systems (each an "Unsuccessful Attack"), including but not limited to pings, port scans, and denial of service attacks, for which

no additional notice shall be required provided that no such incident results in unauthorized access to Electronic PHI.

5.4 HIPAA Security Regulations Compliance. Business Associate agrees to comply with Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations.

6. Term and Termination.

6.1 Term. This Agreement shall take effect on the Effective Date (as defined below), and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section 6.

6.2 Termination for Cause. If Covered Entity determines that Business Associate has breached a material term of this Agreement, Covered Entity will provide written notice to Business Associate which sets forth Covered Entity's determination that Business Associate breached a material term of this Agreement, and Covered Entity may:

6.2.1 Provide written notice to Business Associate which provides an opportunity for Business Associate to cure the breach or end the violation, as applicable. If Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, then Covered Entity may immediately thereafter terminate this Agreement; or

6.2.2 Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible.

6.2.3 If neither termination nor cure is feasible as provided in Sections 6.2.1 and 6.2.2 of this Agreement, Covered Entity will report the violation to the Secretary.

6.3 Effect of Termination.

6.3.1 Except as provided in Section 6.3.2 of this Agreement, upon termination of this Agreement, for any reason, Business Associate will return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision also applies to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate will retain no copies of the PHI.

6.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate will provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon reasonable determination that return or destruction of PHI is infeasible, Business Associate will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. Qualified Service Organization Agreement. Covered Entity and Business Associate hereby acknowledge that Business Associate and its agents and employees have, as applicable, complied, and will comply, with 42 USC §290dd-2 and 42 CFR Ch. 1, part 2, §§2.11 et seq. (the "Federal Drug and Alcohol Regulations") in that:

7.1 The parties acknowledge that if Business Associate receives, processes, reviews, or otherwise deals with any Covered Entity consumer records during the course of the Services Business Associate and its employees will be providing to Covered Entity, that each and every one of said employees will be fully bound by the Federal Drug and Alcohol Regulations;

7.2 Each of Business Associate's employees and agents will maintain Covered Entity's consumer identifying information in accordance with federal and state confidentiality rules governing drug and alcohol treatment records;

7.3 Each of Business Associate's employees and agents will comply, as applicable, with the limitations on disclosure, re-disclosure and use set forth in 42 CFR Ch. 1, part 2, §§ 2.16 and 2.53; and

7.4 If necessary, each of Business Associate's employees and agents will resist in judicial proceedings any efforts to obtain access to consumer records except as permitted by the Federal Drug and Alcohol Regulations.

8. Miscellaneous.

8.1 Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy Regulations or the HIPAA Security Regulations means the section as in effect or as amended.

8.2 Amendment. If any new state or federal law, rule, regulation, or policy, or any judicial or administrative decision, affecting the use or disclosure of PHI is enacted or issued, including but not limited to any law or regulation affecting compliance with the requirements of the HIPAA Privacy Regulations or the HIPAA Security Regulations, the parties agree to take such action in a timely manner and as is necessary for Covered Entity and Business Associate to comply with such law, rule, regulation, policy or decision. If the parties are not able to agree on the terms of such an amendment, either party may terminate this Agreement on at least thirty (30) days' prior written notice to the other party.

8.3 Survival. The respective rights and obligations of Business Associate under Section 6.3 of this Agreement ("Effect of Termination") shall survive the termination of this Agreement.

8.4 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Privacy Regulations, the HIPAA Security Regulations, and the Federal Drug and Alcohol Regulations. The section and paragraph headings of this Agreement are for the convenience of the reader only, and are not intended to act as a limitation of the scope or meaning of the sections and paragraphs themselves.

8.5 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Business Associate and Covered Entity and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

8.6 Assignment. This Agreement shall not be assigned or otherwise transferred by either party without the prior written consent of the other, which consent shall not be

unreasonably withheld; provided that no such consent shall be required for either party's assignment or transfer of this Agreement in connection with a sale or transfer of all or substantially all of the business or assets of the assigning party. This Agreement shall be binding on and inure to the benefit of the parties hereto and their permitted successors and assigns.

8.7 Entire Agreement. This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes all prior communications, representations, and agreements, oral or written, of the parties with respect to its subject matter.

8.8 Severability and Waiver. The invalidity of any term or provision of this Agreement will not affect the validity of any other provision. Waiver by any party of strict performance of any provision of this Agreement will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision of this Agreement.

8.9 Notices. Any notices permitted or required by this Agreement will be addressed as follows or to such other address as either party may provide to the other:

If to Covered Entity: Clark County
 Department of Community Services
 Attn.: Contract Section
 P.O. Box 5000
 Vancouver, WA 98666

If to Business Associate: A Better Way Counseling
 Attn.: Clinical Director
 601 E. McLoughlin Blvd.
 Vancouver, WA 98663