

AMENDATORY AND RESTATED AGREEMENT

This **AMENDATORY AND RESTATED AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (the “City”), **DENVER DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT (“DDPHE”)**, and **DENVER HEALTH AND HOSPITAL AUTHORITY**, a body corporate and political subdivision of the State of Colorado, authorized to do business in Colorado, whose principal address is c/o Denver Health Medical Center, 777 Bannock Street, Denver, Colorado 80204 (the “Contractor”), jointly (“the Parties”).

RECITALS:

- A. The Parties entered into an Agreement dated March 2, 2023, (the “Agreement”) to perform, and complete all of the services and produce all the deliverables set forth on Exhibit A, the Scope of Work and Budget, to the City’s satisfaction.
- B. The Agreement term expired on June 30, 2023.
- C. The Parties wish to reinstate the Agreement and amend the Agreement to extend the term, increase the maximum contract amount, update paragraph 19-No Employment of Workers without Authorization, and amend the scope of work and budget.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Section 3 of the Agreement entitled “**TERM:**” is hereby deleted in its entirety and replaced with:

“**3. TERM:** The Agreement will commence on **July 1, 2022**, and will expire on **June 30, 2024** (the “Term”). The term of this Agreement may be extended by the City under the same terms and conditions by a written amendment to this Agreement. Subject to the Executive Director’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.”

2. Section 4 of the Agreement entitled “**COMPENSATION AND PAYMENT:**” Subsection d. (1) entitled “**Maximum Contract Amount:**” is hereby deleted in its entirety and replaced with:

“**d. Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **FIVE HUNDRED EIGHTY-THREE THOUSAND NINE HUNDRED NINETY-EIGHT DOLLARS AND NO CENTS (\$583,998.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Consultant beyond that specifically described in **Exhibit A**. Any services performed beyond those in Exhibit A are performed at Consultant's risk and without authorization under the Agreement."

3. Section 19 of the Agreement entitled "**NO EMPLOYMENT OF WORKERS WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT:**" is hereby deleted in its entirety and replaced with:

"19. [RESCINDED.]"

4. **Exhibit A** is hereby deleted in its entirety and replaced with **Exhibit A-1, Scope of Work and Budget**, attached and incorporated by reference herein. All references in the original Agreement to **Exhibit A** are changed to **Exhibit A-1**.

5. As herein amended, the Agreement is affirmed and ratified in each and every particular.

6. This Amendatory and Restated Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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Contract Control Number: ENVHL-202369889-01/ENVHL-202263893-01
Contractor Name: DENVER HEALTH AND HOSPITAL AUTHORITY

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver


By:

By:

By:

Contract Control Number:
Contractor Name:

ENVHL-202369889-01/ENVHL-202263893-01
DENVER HEALTH AND HOSPITAL AUTHORITY

By:  _____
0ACDB82B6128484...

Name: Amanda Breeden
 (please print)

Title: Director, SPARO
 (please print)

ATTEST: [if required]

By: _____

Name: _____
 (please print)

Title: _____
 (please print)



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I. Purpose of Agreement

The purpose of the contract is to establish an agreement and Scope of Services between Denver Public Health & Environment (DDPHE) and Denver Health and Hospital Authority (DHHA), Behavioral Health Services (OBHS) to increase outreach, harm reduction and treatment support for persons with opioid, methamphetamine and alcohol use disorders.

II. Services

The Contractor will hire 2.5 FTE, including 1 Therapeutic Caseworker/Clinical Navigator and 1.5 FTE Peer Recovery Coach/Care Navigators.

The Clinical Navigator will:

- Hold credentials of a Certified Addiction Counselor (CAC) III or other related certification.
- Assist in co-response with DPD including Homeless Outreach Team (HOT) and Community Outreach Team (COT) ride-alongs.
- Receive handoffs and referrals and collaborate with partners and programs that serve the overlapping population, which may include, but are not limited to: Denver Police Department, CIRU Co-responders, Mobile Crisis, Outreach Court, and Denver Public Library.
- Conduct screening to provide brief counseling, linkages to services, system navigation, and referral coordination to persons with substance use disorders who interact with first responders or the criminal justice system.
- Conduct intake and assessment, as appropriate, to connect people to substance use-specific services and medication assisted treatment (MAT). Support Denver Health MAT Induction Program, to allow for 24/7 coverage intakes for Medication Assisted Treatment.
- Enter and update participant information into agreed upon database/data spreadsheet(s).
- Coordinate transportation and admission of appropriate participants into detox, treatment, supportive housing and other services.
- Coordinate seamless transition of appropriate participants between services, including support into temporary and transitional services.
- Provide participants with necessities and incentives to reduce barriers to participation and support engagement.
- Collaborate with Peer Recovery Coach/Care Navigators to connect and engage people to treatment and services.

The Peer Recovery Coach/Care Navigators will:

- Meet clients where they are at in their journey to recovery including engagement and support in treatment and other support services, as appropriate.



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- Provide peer/navigation co-response support with law enforcement/first responder type agencies, including: Denver Police, Denver Fire, Early Intervention Team and Street Enforcement Team, AID Diversion Center, STAR and CIRU Co-responders.
- Receive handoffs and referrals from partners who serve the overlapping population, which may include, but are not limited to: Denver Police Department, CIRU Co-responders, Mobile Crisis, Outreach Court, and Denver Public Library.
- Enter and update participant information into agreed upon database/data spreadsheet.
- Coordinate transportation and admission of appropriate participants into detox, treatment, supportive housing and other services.
- Coordinate seamless transition of appropriate participants between services.
- Provide participants with necessities and incentives to reduce barriers to participation and support engagement.
- Collaborate with SUNs to connect people to treatment and services.

The Contractor will also provide support staff to carry out the above tasks, including:

- Peer and clinical supervision and management support.
- Travel support, equipment, furniture and communication tools.
- Items to support client engagement including items that aid in client wellness, safety and treatment; transportation to treatment and services and supportive and transitional/temporary housing and treatment.

III. Process and Outcome Measures

A. Process Measures

- Reinforce, foster and create effective, collaborative partnerships among police and other first responders, mental health practitioners, and other community stakeholders
- Assist to divert the number of persons using substances within Denver, from law enforcement to substance treatment services.
- Facilitate the return of law enforcement units to patrol activities
- Track the number of individuals referred that formally engage in SUN services; target 5-10 contacts per week.
- Obtain and enter client data between all stakeholders into agreed-upon electronic system. Complete data reports and submit as necessary (see "Reporting" in section IV, B).
- Build and foster collaborative partnerships with agencies that serve the overlapping population.
- Participate in grant-required meetings, team-specific Program Coordination Group meetings and bi-annual Steering Committee meetings.



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B. Outcome Measures

- Review program goals and objectives quarterly to determine status of outcomes and identify areas for program improvement/adjustment based on metrics.
- Collaborate with SUN Program Administrator to develop strategies and actions to support population of focus.
- Assist in developing a method to understand the impact on participants' health, and substance use. Aid in pre- and post-program comparison of contacts.
- Collect and report aggregate and client-level data regularly to better communicate impacts and indicators of program operations and effect.
- Identify areas for improvement during referral process and follow-up to initiate greater linkage to care continuum among SUN participants.

IV. Performance Management and Reporting

A. Performance Management

DHHA will ensure Invoices and reports shall be completed and submitted within 45 days following the month services were rendered 100% of the time.

Track and report costs of services covered by federal resources and therefore not billable to this contract. Provide supervision for the SUNs:

1. **Program or Managerial Monitoring:** The quality of the services being provided and the effectiveness of those services addressing the needs of the program.
2. **Contract Monitoring:** Review and analysis of current program information to determine the extent to which contractors are achieving established contractual goals. DDPHE program administrator will manage any performance issues and will develop interventions to resolve concerns.
3. **Compliance Monitoring:** Will ensure that the terms of the contract document are met, as well as Federal, State and City legal requirements, standards and policies.
4. **Financial Monitoring:** Will ensure that contracts are allocated and expended in accordance with the terms of the agreement. Contractor is required to provide all invoicing documents for the satisfaction of the program administrator. The program administrator will review the quality of the submitted invoice monthly. The program administrator will manage invoicing issues through site visits and review of invoicing procedures.

B. Reporting

The following reports shall be developed and delivered to the City as stated in this section.



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Report Name	Description	Frequency	Reports to be sent to:
1. Weekly Outreach Report	For each week outreach activities are conducted, an aggregate report must be submitted to the Program Administrator. The report shall include: date, outreach partner(s), count of contacts, count of engagements, location(s) of engagements), count of referrals made and count of follow-ups	Weekly or based on outreach schedule	SUN Program Manager
2. Participant Data	Individuals who engage in services with the SUN program must be entered into the grant's electronic spreadsheet and shall include client-level data, including: <ul style="list-style-type: none"> • Name, DOB and demographics • Initial contact information including referral/entry source • Intake/Assessment and any re-assessment data • Actions related to law enforcement partners relevant to program impacts to (i.e. diversion, arrest, etc.) • Staff involvement including services provided, resources utilized and actions taken • Track critical incident • Track any follow-up and subsequent contacts made to program participants • Track hotel vouchers issued 	Entered by SUNS as collected; Reports submitted monthly.	SUN Program Manager
3. Invoices and funding	Monthly Expenditures: Include itemized invoices, amount billed to another source of funds (e.g., Medicaid)	Monthly	SUN Program Manager

V. Budget

Invoices and reports shall be completed and submitted no later than the 45th day subsequent to the month for which reimbursement is being sought. Invoicing supporting documents must meet contract requirements.

Base 7/1/2022 - 6/30/2023 - \$278,799

Amendment 1 - 7/1/2023 - 6/30/2024 - \$305,199



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Maximum Contract Amount (Total - \$583,998)

Contractor Name: Denver Health and Hospital Authority	
Contract Term: July 1, 2023 - June 30, 2024	
Item	Budget
Salary and Fringe benefits for 2.3 FTE personnel including supervision, leadership and oversight.	\$245,909
Travel	\$3,900
Communication supplies and service	\$7,524
Transportation of program participants	\$5,000
Participant incentives/support items and transitional/supportive housing	\$15,120
Total Direct Costs	\$277,453
Indirect Cost Rate (10%)	\$27,746
TOTAL BUDGET (Amendment 1)	\$305,199

- VI. **HIPAA/HITECH:** The parties are obligated to follow HIPAA and 42CFR Part 2, and will share data and information pursuant to the extent allowed by law as applicable under this Agreement.

1. GENERAL PROVISIONS AND RECITALS

- 1.01 The parties agree that the terms used, but not otherwise defined below, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they exist or may hereafter be amended.
- 1.02 The parties agree that a business associate relationship (as described in 45 CFR §160.103) under HIPAA, the HITECH Act, and the HIPAA regulations arises between the CONTRACTOR and the CITY to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of CITY.
- 1.03 CITY wishes to disclose to CONTRACTOR certain information, some of which may constitute Protected Health Information ("PHI") as defined below, to be used or disclosed in the course of providing services and activities.
- 1.04 The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they exist or may hereafter be amended.



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- 1.05 The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that impose more stringent requirements with respect to privacy of PHI.
- 1.06 The parties understand that the HIPAA Privacy and Security rules apply to the CONTRACTOR in the same manner as they apply to a covered entity. CONTRACTOR agrees to comply at all times with the terms of this Agreement and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they exist or may hereafter be amended, with respect to PHI.

2. DEFINITIONS.

- 2.01 "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of that information.
- 2.02 "Agreement" means the attached Agreement and its exhibits to which these additional terms are incorporated by reference.
- 2.03 "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

2.03.1 Breach excludes:

1. any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or CITY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
2. any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI, or organized health care arrangement in which CITY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner disallowed under the HIPAA Privacy Rule.
3. a disclosure of PHI where CONTRACTOR or CITY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

2.03.2 Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR



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demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b. The unauthorized person who used the PHI or to whom the disclosure was made;
- c. Whether the PHI was actually acquired or viewed; and
- d. The extent to which the risk to the PHI has been mitigated.

- 2.04 "CONTRACTOR" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.
- 2.05 "CITY" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.
- 2.06 "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.
- 2.07 "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.
- 2.08 "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.
- 2.09 "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.
- 2.10 "Immediately" where used here shall mean within 24 hours of discovery.
- 2.11 "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 2.12 "Parties" shall mean "CONTRACTOR" and "CITY", collectively.
- 2.13 "Physical Safeguards" are physical measures, policies, and procedures to protect CONTRACTOR's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.
- 2.14 "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.



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- 2.15 "Protected Health Information" or "PHI" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.
- 2.16 "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule at 45 CFR §164.103.
- 2.17 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 2.18 "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.
- 2.19 "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.
- 2.20 "Subcontractor" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.
- 2.21 "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.
- 2.22 "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services ("HHS") in the guidance issued on the HHS Web site.
- 2.23 "Use" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

3. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE.

- 3.01 CONTRACTOR agrees not to use or further disclose PHI that CITY discloses to CONTRACTOR except as permitted or required by this Agreement or by law.
- 3.02 CONTRACTOR agrees to use appropriate safeguards, as provided for in this Agreement, to prevent use or disclosure of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY, except as provided for by this Contract.
- 3.03 CONTRACTOR agrees to comply with the HIPAA Security Rule, at Subpart C of 45 CFR Part 164, with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY.



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- 3.04 CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of this Agreement that becomes known to CONTRACTOR.
- 3.05 CONTRACTOR agrees to immediately report to CITY any Use or Disclosure of PHI not provided for by this Agreement that CONTRACTOR becomes aware of. CONTRACTOR must report Breaches of Unsecured PHI in accordance with 45 CFR §164.410.
- 3.06 CONTRACTOR agrees to ensure that any of its subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to comply with the applicable requirements of Section 164 Part C by entering into a contract or other arrangement.
- 3.07 To comply with the requirements of 45 CFR §164.524, CONTRACTOR agrees to provide access to CITY, or to an individual as directed by CITY, to PHI in a Designated Record Set within fifteen (15) calendar days of receipt of a written request by CITY.
- 3.08 CONTRACTOR agrees to make amendment(s) to PHI in a Designated Record Set that CITY directs or agrees to, pursuant to 45 CFR §164.526, at the request of CITY or an Individual, within thirty (30) calendar days of receipt of the request by CITY. CONTRACTOR agrees to notify CITY in writing no later than ten (10) calendar days after the amendment is completed.
- 3.09 CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of CITY, available to CITY and the Secretary in a time and manner as determined by CITY, or as designated by the Secretary, for purposes of the Secretary determining CITY'S compliance with the HIPAA Privacy Rule.
- 3.10 CONTRACTOR agrees to document any Disclosures of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY, and to make information related to such Disclosures available as would be required for CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.
- 3.11 CONTRACTOR agrees to provide CITY information in a time and manner to be determined by CITY in order to permit CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.
- 3.12 CONTRACTOR agrees that, to the extent CONTRACTOR carries out CITY's obligation(s) under the HIPAA Privacy and/or Security rules, CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to CITY in the performance of such obligation(s).



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3.13 CONTRACTOR shall work with CITY upon notification by CONTRACTOR to CITY of a Breach to properly determine if any Breach exclusions exist as defined below.

4. SECURITY RULE.

4.01 CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR §164.308, §164.310, §164.312, §164.314 and §164.316 with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY. CONTRACTOR shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

4.02 CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained here.

4.03 CONTRACTOR shall immediately report to CITY any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI as described in 5. BREACH DISCOVERY AND NOTIFICATION below and as required by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

5.01 Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify CITY of such Breach, however, both parties may agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR §164.412.

5.01.1 A Breach shall be treated as discovered by CONTRACTOR as of the first day on which such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known to CONTRACTOR.

5.01.2 CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have been known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by the federal common law of agency.

5.02 CONTRACTOR shall provide the notification of the Breach immediately to the CITY DHS Executive Director or other designee.

5.02.1 CONTRACTOR'S initial notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

5.03 CONTRACTOR'S notification shall include, to the extent possible:



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- 5.03.1 The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;
- 5.03.2 Any other information that CITY is required to include in the notification to each Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify CITY, or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR §164.410 (b) has elapsed, including:
 - a. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - b. A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - c. Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - d. A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
 - e. Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 5.04 CITY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR §164.404, if at the sole discretion of the CITY, it is reasonable to do so under the circumstances.
- 5.05 In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all required notifications to CITY, and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.
- 5.06 CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR §164.402 to demonstrate that a Breach did not occur.
- 5.07 CONTRACTOR shall provide to CITY all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit



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CITY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to CITY.

- 5.08 CONTRACTOR shall continue to provide all additional pertinent information about the Breach to CITY as it becomes available, in reporting increments of five (5) business days after the prior report to CITY. CONTRACTOR shall also respond in good faith to all reasonable requests for further information, or follow-up information, after report to CITY, when such request is made by CITY.
- 5.09 In addition to the provisions in the body of the Agreement, CONTRACTOR shall also bear all expense or other costs associated with the Breach and shall reimburse CITY for all expenses CITY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs or expenses associated with addressing the Breach.

6. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

- 6.01 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, CITY as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by CITY.
- 6.02 CONTRACTOR may use PHI that CITY discloses to CONTRACTOR, if necessary, for the proper management and administration of the Agreement.
- 6.03 CONTRACTOR may disclose PHI that CITY discloses to CONTRACTOR to carry out the legal responsibilities of CONTRACTOR, if:
- 6.03.1 The Disclosure is required by law; or
- 6.03.2 CONTRACTOR obtains reasonable assurances from the person or entity to whom/which the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person or entity and the person or entity immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.
- 6.04 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.
- 6.05 CONTRACTOR may use and disclose PHI that CITY discloses to CONTRACTOR consistent with the minimum necessary policies and procedures of CITY.

7. OBLIGATIONS OF CITY.



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- 7.01 CITY shall notify CONTRACTOR of any limitation(s) in CITY'S notice of privacy practices in accordance with 45 CFR §164.520, to the extent that such limitation may affect CONTRACTOR'S Use or Disclosure of PHI.
- 7.02 CITY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR'S Use or Disclosure of PHI.
- 7.03 CITY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that CITY has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of PHI.
- 7.04 CITY shall not request CONTRACTOR to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by CITY.

8. BUSINESS ASSOCIATE TERMINATION.

- 8.01 Upon CITY'S knowledge of a material breach or violation by CONTRACTOR of the requirements of this Contract, CITY shall:
 - 8.01.1 Provide an opportunity for CONTRACTOR to cure the material breach or end the violation within thirty (30) business days; or
 - 8.01.2 Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Agreement is feasible.
- 8.02 Upon termination of the Agreement, CONTRACTOR shall either destroy or return to CITY all PHI CONTRACTOR received from CITY and any and all PHI that CONTRACTOR created, maintained, or received on behalf of CITY in conformity with the HIPAA Privacy Rule.
 - 8.02.1 This provision shall apply to all PHI that is in the possession of subcontractors or agents of CONTRACTOR.
 - 8.02.2 CONTRACTOR shall retain no copies of the PHI.
 - 8.02.3 In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to CITY notification of the conditions that make return or destruction infeasible. Upon determination by CITY that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Agreement to the PHI and limit further Uses and Disclosures of the PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains the PHI.
- 8.03 The obligations of this Agreement shall survive the termination of the Agreement.



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9 SUBSTANCE ABUSE (42 C.F.R., Part 2)

Provider will also comply with all provisions of 42 C.F.R., Part 2 relating to substance abuse treatment and records.