

THIRD AMENDATORY AGREEMENT

THIS THIRD AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **MENTAL HEALTH CENTER OF DENVER**, a not-for-profit corporation whose address is 4141 East Dickinson Place, Denver, Colorado 80222 (“MHCD” or “Contractor”), collectively “the Parties”.

RECITALS:

A. The Parties entered into an Agreement dated January 9, 2017 and amended it on April 11, 2018 and December 4, 2018 (together, the “Agreement”).

B. The Parties wish to amend the Agreement to modify the current scope of work and budget, Exhibit A-3, and increase the Maximum Contract Amount.

NOW THEREFORE, the parties agree as follows:

1. All references to “Exhibit A, A-1 and A-2” in the Agreement shall be amended to read “Exhibit A, A-1, A-2 and Exhibit A-3, as applicable”. Effective as of the date written below on the City’s signature page, the scope of work and budget set forth in Exhibit A-3, attached hereto and incorporated herein by this reference, will govern and control the work to be performed from January 1, 2019, until December 31, 2019. Exhibit A-3 hereby replaces and supersedes Exhibit A-2 in its entirety.

2. Article 3 of the Agreement, entitled “**TERM**”, is hereby amended to read as follows:

“3. TERM: The Agreement will commence on January 1, 2017, and will expire unless sooner terminated, on December 31, 2019. 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 will extend until the work is completed or earlier terminated by the Executive Director.”

3. Article 4.d.(1) of the Agreement, entitled “**Maximum Contract Amount**”, is hereby amended to read as follows:

“ d. Maximum Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **One Million Seven Hundred Fifty Thousand Dollars and Zero Cents (\$1,750,000.00)** (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 Contractor beyond that specifically described in Exhibits A, A-1, A-2, and A-3, as applicable. Any services performed beyond those in Exhibits A, A-1, A-2, and A-3, as applicable, are performed at Contractor’s risk and without authorization under the Agreement.”

4. Article 36 of the Agreement, entitled “**NO DISCRIMINATION IN PROGRAM ASSISTANCE**” is hereby amended to read as follows:

“36. NO DISCRIMINATION IN PROGRAM ASSISTANCE: In connection with the performance of work under the Agreement, the Contractor may not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.”

5. A new Article 36, entitled **“CONFIDENTIAL INFORMATION; OPEN RECORDS”** is added to the Agreement, reading as follows:

“36. CONFIDENTIAL INFORMATION; OPEN RECORDS:

A. Confidential Information: Contractor acknowledges and accepts that, in the performance of all work under the terms of this Agreement, Contractor will or may have access to the following types of information: (1) City Proprietary Data or confidential information that may be owned or controlled by the City (“City Proprietary Data”) or (2) confidential proprietary information owned by third parties (“Third Party Proprietary Data”). For purposes of this Agreement, City Proprietary Data and Third Party Proprietary Data shall be referred to collectively as “Confidential Information”. “Confidential Information” shall include any materials or information which may be designated or marked “Proprietary” or “Confidential,” or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Contractor agrees that disclosure of Confidential Information may be damaging to the City or third parties. Contractor agrees that all Confidential Information provided or otherwise disclosed by the City to Contractor or as otherwise acquired by Contractor during its performance under this Agreement shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall limit access to all Confidential Information to only those employees who have a need to know such information in order to provide services under this Agreement. Contractor shall exercise the same standard of care to protect all Confidential Information as a reasonably prudent contractor or as Contractor would to protect its own proprietary or confidential data. Contractor acknowledges that Confidential Information may be in hardcopy, printed, digital or electronic format. The City reserves the right to restrict at any time Contractor’s access to electronic Confidential Information to “read-only” access or “limited” access as such terms are designated by the Executive Director.

Contractor agrees to comply with all applicable state and federal laws protecting the privacy or confidentiality of all information, including protected health information, or other protected information, and to comply with all requirements contained in the attached **Exhibit A**. Contractor shall submit to the Executive Director, within fifteen (15) days of the Executive Director’s written request, copies of Contractor’s policies and procedures to maintain the confidentiality of protected health information to which Contractor has access.

(1) Use of Confidential Information: Except as expressly provided by the terms of this Agreement, Contractor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available any Confidential Information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement.

Contractor further acknowledges that by providing access to Confidential Information, the City is not granting to Contractor any right or license to use such data except as provided in this Agreement. Contractor further agrees not to reveal, publish, disclose, or distribute to any other party, in whole or in part, in any way whatsoever, any Confidential Information without prior written authorization from the Executive Director.

(2) **City Methods:** Contractor agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by Contractor or provided by the City in connection with this Agreement shall be deemed to be the Intellectual Property of the City, as defined in Section 31 of this Agreement, and all rights, including copyright, shall be reserved to the City. Contractor agrees, with respect to Confidential Information, that: (a) Contractor shall not copy, recreate, reverse-engineer or decompile such data, in whole or in part, unless authorized in writing by the Executive Director; (b) Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (c) Contractor shall, upon the expiration or earlier termination of the Agreement, destroy in accordance with Section 28(i) of this Agreement (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

(3) **Employees and Subcontractors:** The requirements of this provision shall be binding on Contractor's employees, agents, officers and assigns. Contractor warrants that all of its employees, agents, and officers who are designated to provide services under this Agreement ("Contractor Staff") will be advised of this provision. All requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.

(4) **Disclaimer:** Notwithstanding any other provision of this Agreement, the City is furnishing Confidential Information on an "as is" basis, without any support whatsoever, and without representation, warranty or guarantee, including, but not in any manner limited to, fitness, merchantability, accuracy and completeness of the Confidential Information. Contractor acknowledges and understands that Confidential Information may not be completely free of errors. Contractor is hereby advised to verify its work. The City assumes no liability for any errors or omissions in any Confidential Information. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, Contractor agrees to contact the City immediately. This Section shall survive the termination of this Agreement.

B. Open Records: The Parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S., and that in the event of a request to the City for disclosure of such information, the City shall advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claims, damages, expenses, losses or costs arising out of Contractor's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court. This Section will survive the termination of this Agreement."

6. A new Article 37, entitled “**PERSONAL INFORMATION AND DATA PROTECTION**” is added to the Agreement, reading as follows:

“37. **PERSONAL INFORMATION AND DATA PROTECTION:**

a. “**Data Protection Laws**” means (i) all applicable international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements relating in any way to the privacy, confidentiality or security of Personal Information (as defined below in Section 28(b)); and (ii) all applicable laws and regulations relating to electronic and non-electronic marketing and advertising; laws regulating unsolicited email communications; security breach notification laws; laws imposing minimum security requirements; laws requiring the secure disposal of records containing certain Personal Information; laws imposing licensing requirements; laws and other legislative acts that establish procedures for the evaluation of compliance; and all other similar applicable requirements. Further, and not by way of limitation, Contractor shall provide for the security of all City Data, and Personal Information if applicable, in accordance with all policies promulgated by Denver Technology Services, as amended, and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, (iv) the Colorado Consumer Protection Act, (v) the Children’s Online Privacy Protection Act (COPPA), (vi) the Family Education Rights and Privacy Act (FERPA), and (vii) Colorado House Bill 18-1128.

b. “**Personal Information**” means all information that individually or in combination, does or can identify a specific individual or from which a specific individual can be identified, contacted, or located. Personal Information includes, without limitation, name, signature, address, e-mail address, telephone number, social security number (full or partial), business contact information, date of birth, national or state identification numbers, bank account number, credit or debit card numbers, and any other unique identifier or one or more factors specific to the individual’s physical, physiological, mental, economic, cultural, or social identity.

c. **Compliance with Law and Regulation:** Contractor confirms and warrants that it complies with any and all applicable Data Protection Laws relating to the collection, use, disclosure, and other processing of Personal Information and that it will perform its obligations under this Agreement in compliance with them. This section will survive the termination of this Agreement.

d. **Software Programs; Security of Personal Information and access to Software Programs:** Contractor will use the software programs designated by the City to collect, use, process, store, or generate all data and information, with or without Personal Information, received as a result of the Contractor’s services under this Agreement. Contractor will fully comply with any and all requirements and conditions associated with the use of said software programs as provided by the City. In addition, Contractor will establish and maintain data privacy and information security policies and procedures, including physical, technical, administrative, and organizational safeguards, in order to: (i) ensure the security and confidentiality of Personal Information; (ii) protect against any anticipated threats or hazards to the security or integrity of Personal Information; (iii) protect against unauthorized disclosure, access to, or use of Personal Information; (iv)

ensure the proper use of Personal Information; and (v) ensure that all employees, officers, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. Contractor shall also provide for the security of all Personal Information in accordance with all policies promulgated by Denver Technology Services, as amended, and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the Children’s Online Privacy Protection Act (COPPA), and (ii) Colorado House Bill 18-1128. The Contractor shall submit to the Executive Director, within fifteen (15) days of the Executive Director’s written request, copies of the Contractor’s policies and procedures to maintain the confidentiality of Personal Information to which the Contractor has access.

e. Confidentiality; No Ownership by Contractor: Unless otherwise permitted expressly by applicable law, all Personal Information collected, used, processed, stored, or generated as the result of the services to be provided under this Agreement will be treated by Contractor as highly confidential information. Contractor will have no right, title, or interest in any Personal Information or any other data obtained or supplied by Contractor in connection with the services to be provided under this Agreement. The City shall own all information, and other work product, with or without Personal Information, developed or obtained by Contractor pursuant to this Agreement (“City Work Product”). Contractor has an obligation to immediately alert the City if Contractor’s security has been breached or if Contractor is aware of any unauthorized disclosure of Personal Information. This Section will survive the termination of this Agreement.

f. Contractor Use of Personal Information and City Work Product: Contractor will take all necessary precautions to safeguard the storage of Personal Information and City Work Product including without limitation: (i) keep and maintain Personal Information and City Work Product in strict confidence and in compliance with all applicable Data Protection Laws, and such other applicable laws, using such degree of care as is appropriate and consistent with its obligations as described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (ii) use and disclose Personal Information or City Work Product solely and exclusively for the purpose of providing the services hereunder, such use and disclosure being in accordance with this Agreement, and applicable law; (iii) not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information or City Work Product for Contractor’s own purposes or for the benefit of anyone other than the City without the prior written consent of the City and the person to whom the Personal Information pertains; and (iv) not engage in “data mining” of Personal Information or City Work Product except as specifically and expressly required by law or authorized in writing by the City. This Section will survive the termination of this Agreement.

g. Employees and Subcontractors: Contractor will ensure that, prior to being granted access to Personal Information or City Work Product, Contractor Staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees’ duties and the sensitivity of the data they will be handling. Only those Contractor Staff who have a direct need for Personal Information, City Work Product, or Confidential Information shall have access to any information provided to Contractor under this Agreement. Prior to allowing any Contractor Staff to access or use any Personal Information, City Work Product, or Confidential Information, the Contractor shall require any such Contractor Staff to review and agree to the usage and access terms outlined in this Agreement. Contractor will inform

its Contractor Staff of the obligations under this Agreement, and all requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. Contractor shall not disclose Personal Information, City Work Product, or Confidential Information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement. Unless Contractor provides its own security protection for the information it discloses to a third-party service provider, the Contractor shall require the third party service provider to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the Personal Information, City Work Product, or Confidential Information disclosed and reasonably designed to protect Personal Information, City Work Product, or Confidential Information from unauthorized access, use, modification, disclosure, or destruction. This Section will survive the termination of this Agreement.

h. Loss of Personal Information or City Work Product: In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Personal Information or City Work Product, Contractor will, as applicable: (i) notify the affected individual and the City as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (ii) cooperate with the affected individual and the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the affected individual or the City; (iii) in the case of Personal Information and if required by applicable law, at the affected individual's sole election: (A) notify the affected individuals in accordance with any legally required notification period; or, (B) reimburse the affected individual for any costs in notifying the affected individuals; (iv) in the case of Personal Information and if required by applicable law, provide third-party credit and identity monitoring services to each of the affected individuals for the period required to comply with applicable law; (v) perform or take any other actions required to comply with applicable law as a result of the occurrence; (vi) indemnify, defend, and hold harmless the City and the affected individual for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the City or the affected individual in connection with the occurrence; (vii) be responsible for recovering lost data and information in the manner and on the schedule set forth by the City without charge to the affected individual, and (viii) provide to the City and the affected individual a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, will comply with applicable law, be written in plain terms in English and in any other language or languages specified by the affected individual, and contain, at a minimum: (i) name and contact information of Contractor's representative; (ii) a description of the nature of the loss; (iii) a list of the types of data involved; (iv) the known or approximate date of the loss; (v) how such loss may affect the affected individual; (vi) what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; (vii) contact information for major credit card reporting agencies; and (viii) information regarding the credit and identity monitoring services to be provided by Contractor. This Section will survive the termination of this Agreement.

i. Data Retention and Destruction: Using appropriate and reliable storage media, Contractor will regularly backup all City Work Product and Personal Information used in connection with this Agreement and retain such backup copies consistent with the

Contractor's data retention policies. Upon termination of the Agreement, at the City's election, Contractor will either securely destroy or transmit to City the City Work Product in an industry standard format. Upon the City's request, Contractor will supply City a certificate indicating the records disposed of, the date disposed of, and the method of disposition used. With respect to City Work Product controlled exclusively by Contractor, Contractor will immediately preserve the state of the Personal Information or City Work Product at the time of the request and place a "hold" on Personal Information or City Work Product destruction or disposal under its usual records retention policies of records that include Personal Information or City Work Product, in response to an oral or written request from City indicating that those records may be relevant to litigation that City reasonably anticipates. Oral requests by City for a hold on record destruction will be reduced to writing and supplied to Contractor for its records as soon as reasonably practicable under the circumstances. City will promptly coordinate with Contractor regarding the preservation and disposition of these records. Contractor shall continue to preserve the records until further notice by City. This Section will survive the termination of this Agreement.

j. No Other Databases: Except as expressly approved in advance by the City, Contractor will not establish or maintain a separate database containing Personal Information or City Work Product to provide the services under the Agreement. This Section will survive the termination of this Agreement.

k. Data Transfer Upon Termination: Upon termination or expiration of this Agreement and City's request, Contractor will ensure that all Personal Information and City Work Product is securely transferred to City, or a party designated by City, within thirty (30) calendar days. Contractor will ensure that the data will be provided in an industry standard format. Contractor will provide City with no less than ninety (90) calendar days' notice of impending cessation of its business or that of any Contractor subcontractor and any contingency plans in the event of notice of such cessation. In connection with any cessation of Contractor's business with its customers, Contractor shall implement its contingency and/or exit plans and take all reasonable actions to provide for an effective and efficient transition of service with minimal disruption to City. Contractor will work closely with its successor to ensure a successful transition to the new service or equipment, with minimal downtime and effect on City, all such work to be coordinated and performed in advance of the formal, final transition date mutually agreed upon by Contractor and City. This Section will survive the termination of this Agreement."

7. Except as amended herein, the Agreement is affirmed and ratified in each and every particular.

8. This Third Amendatory Agreement is not 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.

End

Signature Pages and Exhibit A-3 follow this page.

Contract Control Number:

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:

By _____

By _____

By _____



Contract Control Number: SOCSV-201631657-03

Contractor Name: MENTAL HEALTH CENTER OF DENVER

By: Carl Clark

Name: Carl Clark, MD
(please print)

Title: President and CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



SCOPE OF WORK
Mental Health Center of Denver
SOCSV 2016-31657-03

I. Purpose of Agreement

The purpose of the contract is to establish an agreement and Scope of Services between Denver Human Services (DHS) and Mental Health Center of Denver (MHCD). DHS is working with community partners that provide services for Denver's homeless populations. This Contract establishes the Street to Home project that will provide vital services to Denver's homeless and help meet the goals of Denver's Road Home plan to end homelessness.

II. Services

MHCD and Colorado Coalition for the Homeless (CCH) (a Subcontractor) will provide the services as described below for a total of 85 chronic homeless individuals. Sixty-five individuals will be managed by MHCD and twenty individuals will be served by CCH.

A. MHCD Services

The MHCD Supportive Housing team will manage 65 housing slots for this project including Homeless Management Information System data entry. Services will be provided to 65 homeless individuals with co-occurring mental health and substance use disorders within a comprehensive program of Assertive Community Treatment (ACT) services that are funded by other funding sources such as Medicaid and Medicare. ACT case managers will coordinate participants' housing selection with the housing coordinator. The case manager will assist in moving and furnishing and will provide wrap-around services on-site in the participants' homes. The ACT program offers services to manage psychiatric symptoms, housing, finance, employment, medical care, substance use, family life and activities of daily living and include the following:

1. Mental health policy experts' call ACT the most well-defined, evaluated, and influential treatment in the field of community mental health care. ACT is the fundamental method of delivering high intensity case management services at MHCD. ACT is for those who experience the most severe symptoms of mental illness and have problems taking care of even their most basic needs, typically experience homelessness, substance abuse and legal system involvement. ACT offers services to manage psychiatric symptoms, housing, finances, employment, medical care, substance abuse, family life and activities of daily living.
2. Within the ACT services, Integrated Dual Disorders Treatment (IDDT) offers treatment to program participants by giving them access to substance abuse and mental health services in one setting at the same time.
3. Trauma Recovery and Empowerment Model (TREM) provides services that address issues of physical, sexual, and/or emotional abuse in a population of women with histories of trauma, and for whom trauma-informed treatment and recovery services have been unavailable or ineffective.
4. Motivational Interviewing (MI) provides a very client centered and goal driven interview style that helps change behaviors.

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5. Enrolled participants will also receive assistance from MHCD's Benefits Acquisition and Management Team (BAMT). The team uses an approach that consists of a Benefits Management Specialist assisted by three Benefits Assistants who are also consumers of mental health services. Clients who are brought off the street and into the program will be assessed to determine what kind of treatment and medication plan will be necessary for them. During this time, clients will be assisted by BAMT to apply for all eligible benefit programs. Once a benefit program has been established for the client, DHS will no longer reimburse MHCD for expenses, I.E. Medications/Treatment Services covered through Medicaid.
 - a. This agreement is intended to fund:
 - i. services to persons not eligible for Medicaid or other third-party payment ("ineligible persons"); and,
 - ii. services not covered by Medicaid or other third-party payers ("non-covered services").
6. Dialectical Behavior Therapy (DBT) was developed at the University of Washington. DBT is an empirically based cognitive behavioral treatment for borderline personality disorder. It has efficacy in consumers with chronic suicidal or self-harming behaviors.
7. Access to Medical Care; Program participants will be linked to primary health care service in the community through existing resources that include Medicare, Medicaid and indigent providers including MHCD's Recovery Center and CCH's Stout Street Clinic.

B. CCH Services

The Subcontractor, Colorado Coalition for the Homeless (CCH) will serve approximately twenty homeless individuals with primary substance abuse disorders in their Substance Treatment Services (STS) Program. Homeless individuals referred to the STS program through the Street to Home Project will be assessed through a comprehensive bio/psycho/social history to help determine the best housing placement for stabilization and overall long-term housing stability. Eligible homeless individuals will have immediate access to a time unlimited IDDT and will be assigned a primary case manager. The services afforded each client include:

1. ACT services which includes 1:1 alcohol and drug counseling and education, psychotherapy, psychotropic medication management, benefits acquisition assistance, assertive outreach, linkage to comprehensive medical care including dental and vision, educational/ vocational support, assistance in activities of daily living, and payee services.
2. Access to The Clubhouse at Civic Center Apartment (CCA) which is open six days/week and is client run. The Clubhouse offers a clean and sober environment

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for socialization, computer access, group therapy, weekly community lunch, and resources sharing.

3. Daily Accudetox an acupuncture protocol to treat post-acute withdrawal symptoms.
4. Over 15 treatment groups per week including: DBT, Relapse Prevention, Come as You Are (sobriety not required), Women’s Recovery, Alcohol and Drug Education, and Seeking Safety.
5. Program participants will be given basic furnishings and supplies at move in that include at a minimum, bedding, cooking supplies and paper products.
6. Clients will have access to the following housing options depending upon individual need and choice:
 - a. CCH owned Civic Center Apartment (CCA) which includes the clean and sober “Durkin Wing”.
 - b. Other Single Room Occupancy (SRO) units at Civic Center Apartments, or independent apartments in the Denver Community.
 - c. Clients will have access to current properties utilized by CCH, as well as given assistance in identifying privately managed apartments suitable to the individual client need.

III. Outcome and Process Measures

A. Process Measures

1. Street to Home will provide transitional housing, including Master Leased units, motels, short-term residential facilities for 85 individuals over the course of 2019 for six months or longer, or for the balance of the calendar year if housing secured after July 1, 2019.
2. Street to Home will move 15 individuals into permanent housing, including U.S. Department of Housing and Urban Development (HUD) 202 units, apartments with Section 8, long-term residential facilities, and assisted living facilities during 2019.
3. Street to Home will help 85 individuals have an improvement in psychiatric symptoms within 12 months of enrollment and stabilized psychiatric symptoms proceeding the 12-month enrollment and stabilization.
4. Street to Home will help 35 individuals have no substance abuse/ dependence within 12 months of enrollment and ongoing after that.
5. Street to Home will help 72 individuals have access to a Primary Care Provider within six months of enrollment.

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6. Street to Home will help up to 72 individuals have access to work income or benefits within six months of enrollment.

B. Outcome Measures

1. 81 of enrolled clients will be placed in transitional housing.
2. 15 individuals will be housed in permanent settings.
3. 54 enrolled clients will have an improvement in psychiatric symptoms within 12 months of enrollment and show at least stabilization after that.
4. 35 enrolled clients will have no substance abuse/ dependence within 12 months of enrollment and continued stabilization.
5. 72 enrolled clients will have an identified Primary Care Provider.
6. 72 enrolled clients will have a work income or benefits within six months of enrollment.

IV. Performance Management and Reporting

A. Performance Management

Monitoring will be performed by the program area, Contracting Services, and Financial Services. Contractor may be reviewed for:

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. Contracting Services will provide performance monitoring and reporting to program area management. Contracting Services, in conjunction with the DHS program area, 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 Financial Services. Financial Services will review the quality of the submitted invoice monthly. Financial Services will manage invoicing issues through site visits and review of invoicing procedures.

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B. Reporting

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

Report Name	Description	Frequency	Reports to be sent to:
Monthly Reports	Activity Report that lists individuals served, breakdown of housing status and successes and challenges of the month.	Due Monthly	DRH Program Manager
Quarterly Reports	This report shall include cumulative data for the contract year and a narrative that addresses program outcomes. Report will detail client's activities in groups and the progress they are making in the program.	Due Quarterly	DRH Program Manager

V. Budget

A. The parties understand that DHS/DRH is a payer of last resort. Its funds may only be used to pay for services and expenses not covered by another payer source. Other payer sources (Medicaid, Medicare, and other benefit plans and programs, etc.) should cover a portion of the costs. MHCD is responsible for collecting from those other sources.

B. MHCD will invoice DHS for budgeted items on a cost reimbursement basis. Invoices will include all required documentation to support payment for services and expenses not covered by another payer source. MHCD will identify all persons served and the services provided to them. Charges for “non-covered services” and “ineligible persons” will be identified by MHCD and only those amounts will be paid.

C. Invoices and reports shall be completed and submitted on or before the 22nd of each month following the month services were rendered. Contractor shall use DHS’ preferred invoice template, if requested.

D. Invoices shall be submitted to: DHS_Contractor_Invoices@denvergov.org or by US Mail to:

Attn: Financial Services
Denver Human Services
1200 Federal Boulevard
Denver, Colorado 80204

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E. BUDGET

Contractor: Mental Health Center of Denver		
Fiscal Term: 1/1/19 - 12/31/19		
Contract Number: SOCSV 2016-31657-03		
Program: Street to Home		
Budget Categories	Budgeted Amount	Narrative
Direct Costs		
Client Support Costs	\$275,241.00	Items provided to clients including: prescriptions, labs, co-pays, transportation (shared ride services and public transportation); moving expenses, ID cards, group activities and recreation center passes, food for emergency or groups, clothing for emergencies or job interviews. Client Support includes client housing support for rental assistance, deposits, motels, utilities, and other housing assistance payments. Once the contract is completed, additional items should only be allowed with written preapproval from the Program Manager and FSD.
Sub-contracted Services	\$133,850	Colorado Coalition for the Homeless-Services include High Intensity Assertive Community Treatment and Housing. Sub-recipients and contractors are responsible for ensuring that their sub-contractors and sub-recipients follow all applicable rules and regulations.
Total Direct Costs	\$409,091	
Indirect Costs		
Indirect Costs	\$40,909	Not to exceed \$40,909.00, calculated at 10% of direct costs.
Total Costs	\$450,000	

F. Summary of contract amounts

Base contract: 1/1/2017-12/31/2017	\$850,000.00
Amendment 1: 1/1/2018-12/31/2018	\$850,000.00
Amendment 2: 1/1/2018-12/31/2018	(\$400,000.00)
Amendment 3- 1/1/2019-12/31/2019	\$450,000.00
Total	\$1,750,000.00

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VI. Other Requirements

A. Homeless Management Information System:

The Contractor agrees to fully comply with the Rules and Regulations required by the U.S. Dept. of Housing and Urban Development (HUD) which governs the Homeless Management Information System (HMIS). HUD requires recipients and sub recipients of McKinney-Vento Act funds to collect electronic data on their homeless clients through HMIS. Programs that receive funding through McKinney-Vento that produce an Annual Progress Report (APR) must also collect program level data elements. These programs include but are not limited to: Continuum of Care (CoC), Section 8 Mod Rehab, Emergency Solutions Grant (ESG), and Housing Opportunities for Persons With AIDS (HOPWA). Project types include, but are not limited to: Emergency Shelter, Transitional Housing, Rapid Rehousing, Diversion, Permanent Housing, Supportive Services, and Street Outreach. Participation in HMIS is a requirement for recipients of City of Denver homeless funding.

The Contractor, in addition to the HUD requirements, shall conform to the HMIS Policies and Procedures established and adopted by the Metro Denver Homeless Initiative (MDHI) Continuum of Care.

Technical assistance and training resources for HMIS are available to the Contractor via the Colorado HMIS Helpdesk based on requests by the Contractor to DHS and by periodic assessments of participation, compliance, and accuracy of data collection.

B. Security

The Contractor must conform to the HMIS Security, Privacy, and Data Quality Plan. The importance of the integrity and security of HMIS cannot be overstated. **All** workstations, desktops, laptops, and servers connected to the Contractor's network or computers accessing the HMIS through a Virtual Private Network (VPN) must comply with the baseline security requirements:

1. All HMIS workstations must be placed in secure locations or must be manned at all times if they are in publicly accessible locations. (This includes non-HMIS computers if they are networked with HMIS computers).
2. All printers used to print hard copies from the HMIS are in secure locations.
3. All HMIS workstations must use password protected lock screens after five minutes of inactivity.
4. All HMIS workstations must have a password protected log on for the workstation itself.
5. All HMIS end user computer screens must be placed in a manner where it is difficult for others to see the contents or must have a blackout filter.
6. Passwords must be memorized, not written down in a publicly accessible location, and must never be shared.
7. Confidential data CANNOT be stored on ANY unencrypted mobile device.
8. Confidential data CANNOT be transmitted via unencrypted wireless devices or unsecured public lines.
9. Internet browser must be compatible with 128-bit encryption.

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10. Internet browser must be a current/most up-to-date version
11. HMIS must not be accessed via unsecured wi-fi or other unsecured internet connection
12. Any email containing confidential data must utilize at least 128-bit encryption.
13. All HMIS workstations must have an active firewall turned on.
14. All HMIS equipment must have approved anti-virus software installed and configured to automatically download current signature file.
15. Antivirus software must be set to scan emails and file downloads in real time.
16. HMIS agencies must have their entire network behind a firewall and must routinely monitor for intrusion attempts.
17. All Windows-based computing equipment must have Microsoft updates set to automatically download and install any critical update.
18. All HMIS workstations must be running a current operating system and internet browser security.
19. Systems must be scanned at minimum of weekly for viruses and malware.
20. End Users who have not logged onto the system in the previous 90 days will be flagged as inactive.
21. Under no circumstances shall Contractor demand that an end user hand over his or her username and password.

C. HUD Continuum of Care Data Standards:

Contractor is required to collect data based on the most recent HUD Data Standards. For the MDHI Continuum of Care (CoC), the City of Denver and its Contractor's will collect Universal and CoC program specific elements. The Contractor is required to attend the HMIS training on the data collection requirements for these revised standards.

D. Data Quality Standards:

Data quality standards ensure the completeness, accuracy, timeliness, and consistency of the data in HMIS. The Contractor must conform to the HMIS Security, Privacy, and Data Quality Plan.

1. The Contractor must enter HMIS data (program enrollments and services) into the system within seven (7) calendar days of the actual enrollment or service provided date.
2. MDHI reserves the right to request Data Quality reports from Colorado HMIS for Contractor's programs on a monthly basis.
3. MDHI reserves the right to participate in on-site HMIS audits.
4. MDHI reserves the right to request Data Timeliness tests from Colorado HMIS at any time on Contractor's programs in HMIS.
5. MDHI reserves the right to detailed APRs (displaying client-level data) and summary APRs (displaying aggregate-level data) from Colorado HMIS at any time during the project's operating year. APRs are used to review and monitor the Contractor's program data quality and progress toward achieving annual

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project goals and outcomes for HUD and MDHI requirements. The Contractor's APR data will be consolidated with other Contractor's and MDHI data to fulfill HUD annual reporting requirements.

E. Participation

Contractor is required to identify a Data Partner Agency Liaison (DPAL) to work with MDHI and the City of Denver on overseeing data quality and compliance. Additionally, DPAL will be required to conduct internal monitoring of HMIS workflow at Contractor organization and participate in HMIS related meetings.

VII. HIPAA/HITECH (Business Associate Terms)

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.
- 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

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

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- 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.

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- 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.
- 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.

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- 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).
- 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.

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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:

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

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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 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

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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.

- 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.

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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.

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.