

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **URBAN PEAK DENVER**, whose addresses are 2100 Stout Street, Denver, CO 80205 and 730 East 21st Street, Denver, Colorado 80205 ("Contractor"), collectively “the Parties”.

The City and the Contractor entered into an Agreement and an Amendatory Agreement for the Contractor to undertake, perform, and provide the case and residential management services to youth enrolled in the Rocky Mountain Youth Housing Program (the “Agreement”); and

The City and the Contractor wish to amend the Agreement to increase the funding and extend the term.

In consideration of the mutual covenants and obligations, the Parties agree as follows:

1. Article 3 of the Agreement entitled “TERM OF AGREEMENT” is hereby amended to read as follows:

“**3. TERM OF AGREEMENT:** The term of this Agreement shall commence on **January 1, 2016**, and expire, unless sooner terminated, on **December 31, 2018**. 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. Articles 4 (a) and (d) of the Agreement entitled “COMPENSATION AND PAYMENT” and are hereby amended to read as follows:

“**4. COMPENSATION AND PAYMENT:**

a. Budget: The City shall pay and the Contractor shall accept as the sole compensation for services rendered and costs incurred under the Agreement payment not to exceed the line budget amounts set forth in Exhibit A-1.

d. Maximum Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **Seven Hundred Sixty-Eight Thousand Eight Hundred Forty Dollars and Zero Cents (\$768,840.00)** (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 the Contractor beyond that specifically described in Exhibit A-1. Any services performed beyond those in Exhibit A-1 are performed at Contractor’s risk and without authorization under the Agreement.”

3. All references in the Agreement to Exhibit A and A-1 are amended to read as Exhibits A, A-1, and A-2, respectively.
4. All references in the Agreement to Exhibit B are amended to read as Exhibits B and B-1, respectively. Exhibit B-1 shall remain in effect.
5. Except as herein amended, this Agreement is revived, affirmed and ratified in each and every particular.

Exhibits A-1 and B-1

[SIGNATURE PAGES FOLLOW]

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-201525131-02

Contractor Name: URBAN PEAK DENVER

By: Malinda Anderson

Name: Malinda Anderson
(please print)

Title: COO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



SCOPE OF WORK

Urban Peak Denver

2015-25131 -02

I. Purpose of Agreement

The purpose of the contract is to establish an agreement and Scope of Services between Denver Human Services (DHS) and Urban Peak Denver (UPD) to provide 6 housing units and minimal case management services for eligible homeless youth in transition (ages 16 to 22) who have aged out of foster care, or might otherwise find themselves on the street.

II. Services

Urban Peak Denver will provide:

A. Apartments

- 1.** 6 apartments for DHS youth. There will be no time limits imposed on duration of lease for DHS youth as long as they are in good standing with their lease agreement (including the ability to pay monthly rent), Rocky Mountain Youth Housing Program (RMYHP) expectations, and DHS expectations.
 - a.** When available and if UPD has the capacity, DHS may use additional units (no more than 10 total) at the same contracted terms.
- 2.** After apartment is vacated, UPD will have 5 business days for an apartment in good condition and up to 10 business days for an apartment in poor condition due to tenant misconduct to make the apartment ready and available for new DHS youth.
- 3.** Respite care recommended for DHS youth enrolled in the RMYHP should not last more than 48 hours unless otherwise agreed upon with the DHS Independent Living Program Manager (Program Manager).

B. Case Management

- 1.** Perform weekly check in with tenants.
- 2.** Complete monthly staffing with RMYHP caseworker, DHS case worker and tenant
 - a.** 1 meeting per youth per month at an agreed upon, scheduled time, date, and location.
- 3.** Monitor youth compliance with lease agreement and expectations.
- 4.** Review case plan with each youth.
- 5.** Provide Program Manager with monthly written case plan progress reports for each youth housed at Rocky Mountain Youth Housing Program.
- 6.** Coordinate with DHS staff to review case management and progress towards independent living.

C. Independent Living Skills

- 1.** Provide financial education and planning services.
- 2.** Monitor and provide education and support for youth regarding personal finance planning to include, but not limited to, savings and checking account, monthly bill payments, budgeting, and finance literacy education.
- 3.** Provide guidance and education in housekeeping, cooking and grocery shopping, and general home maintenance.

SCOPE OF WORK

Urban Peak Denver

2015-25131 -02

D. Security

1. Building security will be the sole responsibility of Urban Peak Denver.
2. Appropriate safety measures will be taken to minimize risk exposures to tenants (i.e. secure entrances, monitoring traffic and visitors, limits to visitor length of stays, etc.).
3. Provide critical incident and serious incident reports on DHS youth that may result in media coverage to Program Manager.
 - a. Any media interview requests regarding the specific program and/or topics directly related to this program or its tenants under the age of 18 shall be coordinated through the DHS Public Information Office via the DHS Independent Living Program Manager.

E. Eligibility

1. Please see Exhibit B for youth eligibility criteria.

DHS responsibilities:

- A. DHS will provide Urban Peak Denver with a signed copy of each youth's case plan.
- B. DHS will ensure payment for 6 apartments per month including empty apartments after a DHS youth has been moved out for a period up to 5 business days (or up to 10 business days if the previous DHS tenant has left the unit in poor condition).
- C. If UPD denies eligible DHS youth, DHS will not pay for unit while empty.
- D. DHS will respond within 24 hours to calls from Urban Peak Denver concerning youth.

III. Process and Outcome Measures

Process Measures

- The contractor will collaborate with DHS and community based organizations to provide for the well being of youth in transition, identifying best practices and effective programs.

Outcome Measures

- DHS youth will achieve stability and 75% will become self sufficient at the time of discharge from the program as determined by their individual case plan.

IV. Background Checks

Contractor shall provide background checks for all current and prospective employees of Contractor, and/or any subcontractor who has any direct contact with a child involved in any phase of an open child welfare case including, without limitation, those in the process of being placed and those

SCOPE OF WORK

Urban Peak Denver

2015-25131 -02

who have been placed in out of home care. Each employee, prospective employee and/or subcontractor shall submit a complete set of fingerprints to the Colorado Bureau of Investigation (CBI) that were taken by a qualified law enforcement agency to obtain any criminal record held by the CBI.

A. Contractor Employees and Subcontractors

- 1.** The person's employment is conditional upon a satisfactory criminal background check and subject to the same grounds for denial or dismissal as outlined in 26-6-104(7), C.R.S., including:
 - a.** Checking records and reports; and
 - b.** Individuals who have not resided in the state for two years shall be required to have Federal Bureau of Investigation (FBI) fingerprint-based criminal history.
- 2.** Payment of the fee for the criminal record check is the responsibility of the Contractor or at Contractor's option individual being checked. In either case, DHS will not reimburse any of the costs associated with background checks.

B. Volunteers and Students (if applicable)

- 1.** If volunteers or students are used by Contractor, Contractor shall define specifically the services to be given by that individual.
- 2.** Volunteers and students who are assigned to work directly with the children/youth shall:
 - a.** Be subject to reference checks similar to those performed for employment applicants.
 - b.** Be supervised by Contractor's paid and qualified staff and report any concerns or issues to that staff
 - c.** Be oriented and trained in the confidential nature of their work and the specific job which they are to do prior to assignment.
- 3.** Provisions for employment and volunteer/student related background check inquiries will be followed as outlined in Section 7.701.32 "Use of Reports and Records of Child Abuse or Neglect for Background and Employment Inquiries."

V. Performance Management and Reporting

A. Performance Management

Monitoring may be performed by the program area and Contracting 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 & Financial Monitoring:** Review and analysis of (a) current program information to determine the extent to which contractors are achieving established contractual goals; (b) financial systems & billings to ensure that contract funds are allocated & expended in accordance with the terms of the agreement. Contracting Services, in conjunction with the DHS program area, will manage any performance issues and will develop interventions that will resolve concerns.

SCOPE OF WORK

Urban Peak Denver

2015-25131 -02

- 3. Compliance Monitoring:** Monitoring to ensure that the terms of the contract document are met, as well as Federal, State and City legal requirements, standards and policies

B. Reporting

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

Report # and Name	Description	Frequency	Reports to be sent to:
1. Case Manager Updates	Includes names of youth in program, status of employment, status of education, and percent of youth discharged successfully	Provided at monthly meeting	Independent Living Program Manager
2. Case Plan Progress Report	Brief summary of youth's progress on goals stated in case plan	Provided at monthly meeting	Independent Living Program Manager
3. Property Management Statistics	Includes apartment assignments and upcoming vacancies for DHS designated apartments	15 th of each month	Independent Living Program Manager
4. Rent Ledger	Includes rent collected, overdue rent, payment histories, percentage of total rents collected and waivers of DHS youth	15 th of each month	Independent Living Program Manager
5. Contract Summary Report	Report shall demonstrate all functions	Contract End, within 45 days	Independent Living Program Manager & dhs_contracting_services_documents@denvergov.org



**SCOPE OF WORK
Urban Peak Denver
2015-25131 -02**

	performed, and how services provided met the overall outcomes of this agreement.	after Term End.	
--	--	-----------------	--

VI. Budget Requirements

A. Budget line items that exceed the approved budget by the City must be submitted in writing to Independent Living Program Manager and DHS Contracting Services detailing the requested change and must demonstrate the need. Budget modifications must be approved by the City prior to Contractor expending any funds.

B. Invoices shall be submitted to:
[DHS Contractor Invoices@denvergov.org](mailto:DHS_Contractor_Invoices@denvergov.org)
 or by US Mail to:
 Attn: Financial Services
 Denver Department of Human Services
 1200 Federal Boulevard
 Denver, Colorado 80204

C. Budget

Contractor Name:	Urban Peak Denver	
Contract Term:	1/1/2018 -12/31/2018	
	Total	Budget Narrative
Rent	\$54,000.00	Contractor will bill \$450/unit/month for unoccupied units and \$200/unit/month for occupied units. The total rent for occupied units is \$650/unit/month. The occupant of the unit will be responsible to pay the contractor \$450/ month for the occupied units.
Case Managers	\$169,000.00	\$65/youth/day (5 days/week) Case Managers Services may include, but are not limited to: availability during normal business hours, monitoring youth compliance with lease and expectations, teaching/providing Independent Living Skills, monitoring counseling needs, providing referrals (as



**SCOPE OF WORK
Urban Peak Denver
2015-25131 -02**

		needed), and collaboration with professionals assigned to the youth.
Direct Care Support Employees	\$33,280.00	\$32/youth/weekend day (2 days/week) Direct Care Support and 24-hour response (as needed)
Total	\$ 256,280.00	

VII. Business Associate Terms – HIPAA/HITECH

1. 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.

2. 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 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.

SCOPE OF WORK

Urban Peak Denver

2015-25131 -02

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.

1. 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 this these terms additional 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:

- a. 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.
- b. 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.
- c. 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.

SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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:

- 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

SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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.

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.

2. 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.



SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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.

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 subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such information.

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.



SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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, or an Individual as directed by CITY, and in a timely and manner to be determined by CITY, that information collected in accordance with the Agreement, 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.

3. 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, 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 below and as required by 45 CFR §164.410.

4. BREACH DISCOVERY AND NOTIFICATION.

5.01 Following the discovery of a Breach of Unsecured PHI, CONTRACTOR

SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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 known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by 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:

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,

SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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 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

SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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.

5. 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.

6. 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.



SCOPE OF WORK
Urban Peak Denver
2015-25131 -02

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.

7. 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.



**SCOPE OF WORK
Urban Peak Denver
2015-25131 -02**