

AGREEMENT

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “County”) and **COLORADO DISTRICT COURT**, a branch of Colorado Courts, whose address is 1437 Bannock Street, Denver, Colorado 80202 (the “Subgrantee”), individually a “Party” and jointly the “Parties.”

RECITALS

WHEREAS, the Parties enter into this Agreement to manage federal Victims of Crime Act (“Victim Compensation”) funds received by the Denver District Attorney’s Office through the Department of Safety, Division of Criminal Justice, pursuant to Colorado Revised Statute 24-33.503 and 507, to enhance the state victim compensation payments to eligible victims of crime and survivors of victims crime for expenses allowed under the Colorado Victim Compensation Act. District Courts will be responsible for managing the Victim Compensation grant funds per Statute 24-4.1-118.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above and agree as follows:

1. **COORDINATION AND LIAISON**: The Subgrantee shall fully coordinate all services under the Agreement with the Victim Compensation Program Administrator (“VCPA”) of the Denver District Attorney’s Office (“DDAO”) or the VCPA’s designee.
2. **GRANT AWARD**: This contract is funded through the federal Victims of Crime Act grant and is subject to all applicable rules and regulations governing said grant, which are hereby fully incorporated into this contract by reference.
3. **SERVICES TO BE PERFORMED**: As the DDAO directs, the Subgrantee shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth in **Exhibit A**, Grant Award to Denver District Attorney, to the DDAO’s satisfaction. The Subgrantee is ready, willing, and able to provide the services required by this Agreement. The Subgrantee shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement. The Subgrantee agrees to follow the DDAO’s referral policies, including adherence to rules addressing services to clients who are denied due to ineligibility. All records, data, specifications, and documentation prepared by the Subgrantee under this Agreement, when delivered to and accepted by the DDAO, shall become the property of the Victim Compensation Program.
4. **TERM**: The Agreement will commence on January 1, 2025, and will expire, unless sooner terminated, on September 30, 2026 (the “Term”). Subject to the DDAO’s prior written authorization, the Subgrantee 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 DDAO.
5. **COMPENSATION AND PAYMENT**
 - 5.1. **Budget**: The DDAO shall pay, and the Subgrantee shall accept as the sole compensation for services rendered and costs incurred and paid under the Agreement payment not to exceed the line budget amounts set forth in **Exhibit A**.
 - 5.2. **Reimbursable Expenses**: There are no reimbursable expenses allowed under the Agreement. All the Subgrantee’s expenses are contained in the budget in **Exhibit A**. The DDAO is not obligated

to pay the Subgrantee for any other fees, costs, expenses, or charges of any nature that may be incurred and paid by the Subgrantee in performing services under this Agreement including but not limited to personnel, benefits, contract labor, overhead, administrative costs, operating costs, supplies, equipment, and out-of-pocket expenses.

5.3. Maximum Contract Amount

5.3.1. Notwithstanding any other provision of the Agreement, the DDAO's maximum payment obligation will not exceed **ONE MILLION DOLLARS AND ZERO CENTS (\$1,000,000.00)** (the "Maximum Contract Amount"). The DDAO is not obligated to execute an Agreement or any amendments for any further services, including any services performed by the Subgrantee beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** or performed outside the Term are performed at the Subgrantee's risk and without authorization under the Agreement.

5.3.2. The DDAO's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The DDAO does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the DDAO.

6. PROGRAM RESTRICTIONS

6.1. Funding Contingency: Federal funds or non-County funds constitute all or some of the funding under this Agreement, the DDAO's obligation to pay the Subgrantee shall be contingent upon such non-County funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from non-County grant funds, and the DDAO's liability for such payments shall be limited to the amount remaining of such grant funds. If state, federal, or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the DDAO may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The DDAO will, however, pay for services and goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest.

6.2. Recovery of Incorrect Payments: If, because of any audit or program review relating to the performance of the Subgrantee or its officers, agents or employees under this Agreement, there are any irregularities or deficiencies in any audit or review, then the Subgrantee will, upon notice from the DDAO, correct all identified irregularities or deficiencies within the time frames designated in the DDAO's written notice. If corrections are not made by such date, then the final resolution of identified deficiencies or disputes shall be deemed to be resolved in the DDAO's favor unless the Subgrantee obtains a resolution in its favor from the responsible official conducting the audit or review. The foregoing in no way limits the Subgrantee's obligation to reimburse the DDAO for any costs or expenses paid under this Agreement that have been determined to be unallowable or disallowed by the federal government of the United States, the State of Colorado, or the DDAO in accordance with applicable federal laws, state, and local laws. The closeout of a federal award does not affect the right of the federal agency, the State of

Colorado, or the DDAO to disallow costs and recover funds because of a later audit or other review.

6.3. Closeout Procedures: The Subgrantee shall comply with all contract closeout procedures directed by the DDAO under this Agreement for final reimbursement, including but not limited to final review of payments, invoices, referrals, and required reporting documents, including close-out signature. To complete closeout, the Subgrantee shall timely provide the DDAO with all deliverables, including documentation, and the Subgrantee final reimbursement request or invoice.

6.4. Client Records: The use or disclosure by any party of any information concerning a client for any purpose not directly connected with the administration of the applicable award or this Agreement is prohibited except upon written consent of the client, their attorney, or guardian.

6.5. Pass-Through Provisions Required: If the Subgrantee enters into any subcontracts or subgrants with other individuals or entities and pays those individuals or entities for such goods or services with federal or state funds, the Subgrantee shall include provisions in its subcontracts regarding the federal and state laws identified or referenced in this Agreement. The Subgrantee retains full responsibility for complying with the terms of this Agreement, whether the services are provided directly or by a third party, and for including all relevant terms in its subcontracts.

6.6. Non-Discrimination: The Subgrantee agrees to comply with all federal and state statutes relating to nondiscrimination, including but not limited to, Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 and 1685- 1686, which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1974, 42 U.S.C. §§ 6101-6107, which prohibits discrimination on the basis of age; the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. 91-616, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; §§ 523 and 527 of the Public Health Service Act of 1912, 42 U.S.C. 290, *et seq.*, relating to confidentiality of alcohol and drug abuse patient records; Executive Order 11246; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212, relating to nondiscrimination of protected veterans; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3601, *et seq.*, relating to nondiscrimination in the sale, rental or financing of housing; all regulations and administrative rules established pursuant to the foregoing laws; any additional nondiscrimination provision in any specific statute applicable to any federal or state funding for this Agreement; and the requirements of any other nondiscrimination statutes which may apply.

7. EXAMINATION OF RECORDS AND AUDITS: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Subgrantee's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Subgrantee shall cooperate with City representatives and City representatives shall be granted access to the

foregoing documents and information during reasonable business hours and until the latter of five (5) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Subgrantee to make disclosures in violation of state or federal privacy laws. The Subgrantee shall at all times comply with D.R.M.C. 20-276.

8. **REPORTS**: The Subgrantee shall provide the DDAO with the reports described in **Exhibit A** in such a format as may be designated by the DDAO. Reports may be submitted electronically by disk or e-mail, followed by hard copy transmittal. In addition, the Subgrantee shall disclose, in a timely manner, in writing to the DDAO and the federal or state awarding agency, all violations of federal or state criminal law involving fraud, bribery, or gratuity violations potentially affecting the applicable award. The DDAO, the State of Colorado, or any relevant federal agency may impose penalties for noncompliance allowed under 2 C.F.R. Part 180, 2 C.F.R. § 200.338, and 31 U.S.C. 3321, which may include, without limitation, suspension, or debarment.
9. **PERFORMANCE MONITORING/INSPECTION**: The Subgrantee shall permit the State to monitor and review the Subgrantee's performance under this Agreement. The Subgrantee shall make available to the State for inspection all files, records, reports, policies, minutes, materials, books, documents, papers, invoices, accounts, payrolls and other data, whether in hard copy or electronic format, used in the performance of any of the services required hereunder or relating to any matter covered by this Agreement to coordinate the performance of services by the Subgrantee in accordance with the terms of this Agreement. All such monitoring and inspection shall be performed in a manner that will not unduly interfere with the services to be provided under this Agreement. The Subgrantee agrees that the reporting and record keeping requirements specified in this Agreement are a material element of performance and that if, in the opinion of the State, the Subgrantee's record keeping practices and/or reporting to the State are not conducted in a timely and satisfactory manner, the State may withhold part or all payments under this Agreement until such deficiencies have been remedied. In the event of a withheld payment, the State agrees to notify the Subgrantee of the deficiencies that must be corrected to bring about the release of the withheld payment.
10. **STATUS OF SUBGRANTEE** : The Subgrantee is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Subgrantee nor any of its employees are employees or officers of the County under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.
11. **WHEN RIGHTS AND REMEDIES NOT WAIVED**: In no event will any payment or other action by the DDAO constitute or be construed to be a waiver by the DDAO of any breach of covenant or default that may then exist on the part of the Subgrantee . No payment, other action, or inaction by the DDAO when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

12. **INSURANCE**

12.1. The District Courts are a “public entity” within the meaning of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended (the “Act”). The District Courts shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet the School District’s liabilities in accordance with the limits of the Act. **The District Courts will be responsible for the actions and omissions of its respective officers, agents, employees, and subcontractors, to the extent provided by the Act.** Proof of such insurance shall be provided upon written request by the DDAO. This obligation shall survive the termination of the Agreement.

12.2. Subcontractors and Subconsultants: Subgrantee shall ensure that all such Subcontractors and Subconsultants (Subcontractors) maintain the following insurance covering all operations, goods or services provided pursuant to this Agreement. Subgrantee agrees to provide proof of insurance for all such Subcontractors upon request by the Subgrantee. The insurance coverages specified in this Agreement are the minimum requirements, and do not lessen or limit the liability of the Subcontractor. The Subcontractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

13. COLORADO GOVERNMENTAL IMMUNITY ACT: Liability for claims for injuries to persons or property arising from the acts, omissions, or negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, § 24-10- 101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b); and Denver County’s limitation on liability for torts, D.R.M.C. § 1.1.7. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

14. TAXES, CHARGES AND PENALTIES: The DDAO is not liable for the payment of taxes, late charges or penalties of any nature. The Subgrantee shall promptly pay when due, all taxes, bills, debts, and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment, or execution to be filed against County property.

15. ASSIGNMENT; SUBCONTRACTING: The Subgrantee shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the DDAO’s prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Agreement by the DDAO. The DDAO has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Subgrantee shall remain responsible to the DDAO; and (ii) no contractual relationship shall be created between the DDAO and any subconsultant, subcontractor, or assign.

16. INUREMENT: The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

17. NO THIRD-PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the Agreement

gives or allows any claim or right of action to any third person or entity. Any person or entity other than the DDAO or the Subgrantee receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

18. **NO AUTHORITY TO BIND DENVER TO CONTRACTS**: The Subgrantee lacks any authority to bind Denver on any contractual matters. Final approval of all contractual matters that purport to obligate Denver must be executed by the DDAO in accordance with the City's Charter and the Denver Revised Municipal Code.
19. **SEVERABILITY**: Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the County, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.
20. **CONFLICT OF INTEREST**: No employee of the County shall have any personal or beneficial interest in the services or property described in the Agreement. The Subgrantee shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Subgrantee represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Subgrantee by placing the Subgrantee's own interests, or the interests of any party with whom the Subgrantee has a contractual arrangement, in conflict with those of the County. The County, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Subgrantee written notice describing the conflict.
21. **NOTICES**: All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the Subgrantee at the address aforementioned and to the DDAO/County at the following: Denver City Attorney's Office, 1437 Bannock St., Room 353, Denver, Colorado 80202. Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.
22. **GOVERNING LAW; VENUE**: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).
23. **NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under the Agreement, the Subgrantee may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender

identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Subgrantee shall insert the foregoing provision in all subcontracts.

- 24. NO DISCRIMINATION IN PROGRAM ASSISTANCE:** In connection with the performance of work under the Agreement, the Subgrantee may not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of race, color, religion, national origin, ancestry, gender, age, military status, sexual orientation, gender identity or gender expression, marital or domestic partner status, political beliefs or affiliation, familial or parental status—including pregnancy, medical condition, military service, protective hairstyle, genetic information, or disability. The Subgrantee shall insert the foregoing provision in all subcontracts.
- 25. FAITH BASED ORGANIZATIONS AND SECTARIAN ACTIVITIES:** The Subgrantee shall not engage in inherently religious activities, such as worship, religious instruction, or proselytizing as part of the programs or services funded under this Agreement.
- 26. COMPLIANCE WITH ALL LAWS:** The Subgrantee shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver. These laws, regulations, and other authorities are incorporated by reference herein to the extent that they are applicable and required by law to be so incorporated.
- 27. STATUTES, REGULATIONS, AND OTHER AUTHORITY:** Reference to any statute, rule, regulation, policy, executive order, or other authority means such authority as amended, modified, codified, replaced, or reenacted, in whole or in part, and in effect, including rules and regulations promulgated thereunder, and reference to any section or other provision of any authority means that provision of such authority in effect and constituting the substantive amendment, modification, codification, replacement, or reenactment of such section or other provision, in each case except to the extent that this would increase or alter the Parties respective liabilities under this Agreement. It shall be the Subgrantee's responsibility to determine which laws, rules, and regulations apply to the services rendered under this Agreement and to maintain its compliance therewith.
- 28. COMPLIANCE WITH DENVER WAGE LAWS:** To the extent applicable to the Subgrantee's provision of Services hereunder, the Subgrantee shall comply with, and agrees to be bound by, all requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Subgrantee expressly acknowledges that the Subgrantee is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Subgrantee, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.
- 29. LEGAL AUTHORITY:** The Subgrantee represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of the Subgrantee represents and warrants that he has been fully authorized by the Subgrantee to execute the Agreement on behalf of the Subgrantee and to validly and legally bind the Subgrantee to all the terms, performances and provisions of the Agreement. The DDAO shall have the right, in its sole discretion,

to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either the Subgrantee or the person signing the Agreement to enter into the Agreement.

- 30. LICENSES, PERMITS, AND OTHER AUTHORIZATIONS:** The Subgrantee shall secure, prior to the Term, and shall maintain, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement. This Section is a material part of this Agreement.
- 31. PROHIBITED TERMS:** Any term or condition that requires the County to indemnify or hold the Subgrantee harmless; requires the County to agree to binding arbitration; requires the County to obtain certain insurance coverage; limits the Subgrantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be *void ab initio*. Any agreement containing a prohibited term shall otherwise be enforceable as if it did not contain such term or condition, and all agreements entered into by the County, except for certain intergovernmental agreements, shall be governed by Colorado law notwithstanding any term or condition to the contrary.
- 32. DEBARMENT AND SUSPENSION:** The Subgrantee acknowledges that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency, or political subdivision of the State of Colorado. The Subgrantee shall immediately notify the DDAO if any subcontractor becomes debarred or suspended, and shall, at the DDAO's request, take all steps required to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.
- 33. NO CONSTRUCTION AGAINST DRAFTING PARTY:** The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any Party merely because any provisions of the Agreement were prepared by a particular Party.
- 34. ORDER OF PRECEDENCE:** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls—except for certain federal and state terms and conditions.
- 35. INTELLECTUAL PROPERTY RIGHTS:** The DDAO and the Subgrantee intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Subgrantee and paid for by the DDAO pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the DDAO. The Subgrantee shall disclose all such items to the DDAO and shall assign such rights over to the DDAO upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the DDAO at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Subgrantee (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the DDAO, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity. The Parties agree that all materials, text, logos, documents, booklets,

manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information of the Subgrantee made available, directly or indirectly, by the Subgrantee to the DDAO as part of the Scope of Services (collectively, “Subgrantee Materials”), are the exclusive property of the Subgrantee or the third parties from whom the Subgrantee has secured the rights to use such product. Subgrantee Materials, processes, methods, and services shall at all times remain the property of the Subgrantee ; however, the Subgrantee hereby grants to the DDAO a nonexclusive, royalty free, perpetual, and irrevocable license to use Subgrantee Materials. The Subgrantee shall mark or identify all such Subgrantee Materials to the DDAO. The Subgrantee acknowledges that pursuant to law, the federal or state government may reserve ownership or a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted under this Agreement.

36. SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable.

37. ADVERTISING AND PUBLIC DISCLOSURE: The Subgrantee shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Subgrantee ’s advertising or public relations materials without first obtaining the written approval of the DDAO. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the DDAO. The Subgrantee shall notify the DDAO in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to DDAO officials.

38. CONFIDENTIAL INFORMATION

38.1. Subgrantee shall hold and maintain any and all State Records that the State provides or makes available to DDAO for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by DDAO under CORA. Subgrantee shall not, without prior written approval of the State, use for subgrantee’s own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in the Grant Award Letter. Subgrantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Subgrantee or its Subcontractors will or may receive the following types of data, Subgrantee or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Agreement as an Exhibit, if applicable, **(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, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this

Agreement, if applicable. Subgrantee shall immediately forward any request or demand for State Records to the State's principal representative.

38.2. Subgrantee may provide State Records and County Records to its agents, employees, assigns, and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information and County Confidential Information to those agents, employees, assigns, and Subcontractors who require access to perform their obligations under this Agreement. Subgrantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign, or Subcontractor has access to any State Confidential Information or County Confidential Information. Subgrantee shall provide copies of those signed nondisclosure restrictions to the DDAO upon request.

38.3. If Subgrantee becomes aware of any Incident, it shall notify the DDAO immediately and cooperate with the DDAO regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the DDAO. After an Incident, Subgrantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the DDAO, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the DDAO at no additional cost to the DDAO.

38.4. Subgrantee shall use, hold and maintain State Confidential Information and County Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information and County Confidential Information wherever located. Subgrantee shall provide the DDAO with access, subject to Subgrantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and County Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Subgrantee shall return State and County Records provided to Subgrantee or destroy such State and County Records and certify to the County that it has done so, as directed by the DDAO. If Subgrantee is prevented by law or regulation from returning or destroying State Confidential Information or County Confidential Information, Subgrantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information and County Confidential Information.

38.5. If Subgrantee or any of its Subcontractors will or may receive PII under this Agreement, Subgrantee shall provide for the security of such PII, in a manner and form acceptable to the DDAO, including, without limitation, State and County non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subgrantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et seq.*, C.R.S., Subgrantee, including, but not limited to, Subgrantee's employees, agents, and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement.

38.6. Nothing in this Agreement shall in any way limit the ability of the County to comply with any laws or legal process concerning disclosures by public entities. The Parties understand that all materials exchanged under this Agreement, including Confidential Information, may be

subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S., (the “Act”). In the event of a request to the County for disclosure of confidential materials, the County shall advise the Subgrantee of such request in order to give the Subgrantee the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or confidential. If the Subgrantee objects to disclosure of any of its material, the Subgrantee shall identify to the County the legal basis under the Act for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Subgrantee agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the County will tender all material to the court for judicial determination of the issue of disclosure.

- 39. SOFTWARE PIRACY PROHIBITION:** State or other public funds payable under this Agreement or the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subgrantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Subgrantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the County determines that Subgrantee is in violation of this provision, the County may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.
- 40. PROTECTED HEALTH INFORMATION:** The Subgrantee shall comply with all legislative and regulatory requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”); the Health Information Technology for Economic and Clinical Health Act (“HITECH”); 42 CFR Part 2; the privacy standards adopted by the U.S. Department of Health and Human Services, as amended, 45 C.F.R. parts 160 and 164, subparts A and E; and the security standards adopted by the U.S. Department of Health and Human Services, as amended, 45 C.F.R. parts 160, 162 and 164, subpart C (collectively, “HIPAA Rules”). The Subgrantee shall implement all necessary protective measures to comply with HIPAA Rules, and the Subgrantee hereby agrees to be bound by the terms of the Business Associate Agreement attached hereto and incorporated herein by reference as **Exhibit C**. The Subgrantee shall not use protected health information or substance use treatment records except as legally necessary to fulfill the purpose of this Agreement and shall hold the County harmless, to the extent permitted by law, for any breach of these regulations. This Section shall survive the expiration or earlier termination of this Agreement, and the Subgrantee shall ensure that the requirements of this Section are included in any relevant subcontracts.
- 41. TIME IS OF THE ESSENCE:** The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.
- 42. PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only and shall not be construed to define or limit the terms and provisions hereof.
- 43. COUNTY EXECUTION OF AGREEMENT:** The Agreement will not be effective or binding on the City and County of Denver 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.
- 44. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous, or subsequent addition, deletion, or other modification has

any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the County at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the County.

45. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS**: The Subgrantee shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from County facilities and from participating in County operations.
46. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**: The Subgrantee consents to the use of electronic signatures by the County. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the County in the manner specified by the County. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
47. **ATTACHED EXHIBITS INCORPORATED**: The following attached exhibits are hereby incorporated into and made a material part of this Agreement: **Exhibit A**, Grant Award Letter between Department of Public Safety and Denver District Attorney; **Exhibit B**, Grant Award Letter Amendment with Department of Public Safety and Denver District Attorney; and **Exhibit C**, HIPAA/HITECH BAA..

[SIGNATURE PAGES TO FOLLOW]

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