

v.4.11



State of Colorado

Department of Human Services Contract

Signature and Cover Pages

CMS #:

26 IBEH 198176

eClearance#:

2505579

State Agency

Colorado Department of Human Services
Behavioral Health Administration

Contractor

City of Littleton for the use and benefit of the
Littleton Police Department

Contract Maximum Amount

Initial Term

State Fiscal Year 2026 \$108,535.00

Contractor's State of Incorporation: CO

Contract Performance Beginning Date

Extension Terms

None

The later of the Effective Date or July 1, 2025

Initial Contract Expiration Date

June 30, 2026

Maximum Amount for

All Fiscal Years \$108,535.00

Except as stated in **§2.D**, the total duration of
this Contract, including the exercise of any
options to extend, shall not exceed 5 Years
from its Performance Beginning Date.

Pricing/Funding

Price Structure: Cost Reimbursement
Contractor shall invoice: Monthly
Fund Source: State General Fund

Options

The State shall have the following options if
indicated with "Yes," as further described in
§2.C and §5.B.v:

Option to Extend Term per §2.C: Yes.

Option to Increase or Decrease Maximum

Amount per §5.B.v: Yes.

v.4.11



Insurance

Contractor shall maintain the following insurance if indicated with “Yes,” as further described in §10:

- Worker’s Compensation: Yes
- General Liability: Yes
- Automobile Liability: Yes
- Protected Information: Yes
- Professional Liability Insurance: Yes
- Cyber/Net. Security-Privacy Liability Insurance: No
- Crime Insurance: No

State Representative

Monique Maurice, Chief Financial Officer
Behavioral Health Administration
710 South Ash Street C140
Denver CO 80204
monique.maurice@state.co.us

Miscellaneous

Authority to enter into this Contract exists in:
C.R.S. 27-60-104
Law-Specified Vendor Statute (if any): N/A
Procurement Method: Request for Proposal
Solicitation Number (if any): RFP IBEH
2025*152

Contractor Representative

Doug Stephens, Chief of Police
Littleton Police Department
2255 West Berry Avenue
Littleton, CO 80120
dstephens@littletongov.org

Exhibits

- The following Exhibits are attached and incorporated into this Contract:
- Exhibit A - Statement of Work
 - Exhibit B - Budget
 - Exhibit C - Miscellaneous Provisions
 - Exhibit D - HIPAA BAA

Contract Purpose

The purpose of this project is to create, sustain, or expand Co-Responder Programs, which dispatch behavioral health Co-Responders along with law enforcement, or provide a joint secondary response on calls for service wherein behavioral health appears to be a relevant factor.

Signature Page Begins on Next Page

The rest of this page is intentionally left blank.

v.4.11



The parties hereto have executed this contract

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

Contractor

City of Littleton for the use and benefit of the
Littleton Police Department

DocuSigned by:
Kyle Schlachter
523C318369A143D...
By: Kyle Schlachter, Mayor

Date: 5/20/2025

Approved as to form:

DocuSigned by:
Reid Betzing
596911B330724F3...
By: Reid Betzing, City Attorney

Date: 5/20/2025

State of Colorado

Jared S. Polis, Governor
Department of Human Services
Michelle Barnes, Executive Director

Signed by:
Dannette R. Smith
3953D4DCDD84415...
By: Dannette R. Smith, Commissioner
Behavioral Health Administration

Date: 6/13/2025

In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

State Controller

Robert Jaros, CPA, MBA, JD

DocuSigned by:
Toni Williamson
12A31DEB619C416...
By: Telly Belton/Toni Williamson/Amanda
Rios

Effective Date: 6/13/2025

-- Signature and Cover Pages End --

v.4.11



Table of Contents

1. Parties _____	1
2. Term and Effective Date _____	2
3. Definitions _____	4
4. Statement of Work _____	7
5. Payments to Contractor _____	8
6. Reporting - Notification _____	10
7. Contractor Records _____	11
8. Confidential Information-State Records _____	12
9. Conflicts of Interest _____	15
10. Insurance _____	15
11. Breach of Contract _____	19
12. Remedies _____	19
13. State’s Right of Removal _____	21
14. Dispute Resolution _____	22
15. Notices and Representatives _____	22
16. Rights in Work Product and Other Information _____	23
17. Statewide Contract Management System _____	24
18. General Provisions _____	25
19. Colorado Special Provisions (Colorado Fiscal Rule 3-3) _____	31
20. Department of Human Services Provisions _____	34
21. Third Party Certification for Access to PII Through a Database or Automated Network	36
22. Federal Provisions _____	37

1. Parties

This Contract is entered into by and between Contractor named on the Signature and Cover Pages for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the Department of Human Services (the “State” or “CDHS”). Contractor and the State agree to the terms and conditions in this Contract.

v.4.11



2. Term and Effective Date

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

B. Initial Term

The Parties' respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Pages for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Signature and Cover Pages for this Contract (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State's Option

If the Signature and Cover Pages for this Contract shows that the State has the Option to Extend Term, then the State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §23 "Sample Option Letter." The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract. Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 years from its Performance Beginning Date, or the number of years specified on the Signature and Cover Pages if such number is less than 5 years, absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in §15, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension" or "Holdover"), regardless of whether additional Extension

v.4.11



Terms are available or not. Any such extension shall be under the same terms and conditions of the operative Contract including, but not limited to, prices, rates, and service delivery requirements. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for Breach of Contract by Contractor, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §15. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Contract in the public interest, the State shall pay Contractor an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Contract is less than 60% completed, as determined by the State, the State may reimburse Contractor for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Contract, incurred by Contractor which are directly attributable to the uncompleted portion of

v.4.11



Contractor's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Contractor hereunder.

3. Definitions

The following terms shall be construed and interpreted as follows:

- A. **"Breach of Contract"** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under § 24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- B. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays as listed in § 24-11-101(1) C.R.S.
- C. **"Chief Procurement Officer"** means the individual to whom the Executive Director has delegated his or her authority pursuant to § 24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the State.
- D. **"CJI"** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under 24-72-302 C.R.S.
- E. **"Contract"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto. For purposes of clarification and the removal of any doubt, subject to any future modifications thereto, the Signature and Cover Pages and Sections 1 through 21, as identified in the Table of Contents herein above, shall constitute the "main body" of this Contract exclusively.
- F. **"Contract Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- G. **"CORA"** means the Colorado Open Records Act, § § 24-72-200.1 et. seq., C.R.S.

v.4.11



- H. **“Deliverable”** means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Contractor’s Work that is intended to be delivered to the State by the Contractor.
- I. **“Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract. If this Contract is for a Major Information Technology Project, as defined in § 24-37.5-102(2.6), then Effective Date of this Contract shall be the later of the date on which this Contract is approved and signed by the State’s Chief Information Officer or authorized delegate or the date on which this Contract is approved and signed by the State Controller or authorized delegate, as shown on the Signature and Cover Page for this Contract.
- J. **“End of Term Extension”** means the time period defined in § 2.D.
- K. **“Exhibits”** means the exhibits and attachments included with this Contract as shown on the Signature and Cover Pages for this Contract.
- L. **“Extension Term”** means the time period defined in § 2.C.
- M. **“Goods”** means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- N. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in § § 24-37.5-401, et. seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- O. **“Initial Term”** means the time period defined in § 2.B.
- P. **“Party”** means the State or Contractor, and **“Parties”** means both the State and Contractor.
- Q. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or other credit card information as may be protected by State or federal law.

v.4.11



- R. **“PHI”** means any individually identifiable health information, transmitted or maintained in electronic or any form or medium, including but not limited to demographic information,, (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the Federal Health Insurance Portability and Accountability Act.
- S. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in § 24-72-501 and 24-73-101, C.R.S. “PII” shall also mean “Personal Identifying Information” as set forth in § 24-74-102, et. seq., C.R.S.
- T. **“Services”** means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.
- U. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJ, Educational Records, Substance Use Disorder Information, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- V. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to § 24-30-202(13)(a), C.R.S.

v.4.11



- W. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- X. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- Y. **“Subcontractor”** means any third-parties engaged by Contractor to aid in performance of the Work.
- Z. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax information includes but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- AA. **“Work”** means the Goods delivered and Services performed pursuant to this Contract.
- BB. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. Statement of Work

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of the Exhibits. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

v.4.11



5. Payments to Contractor

A. Maximum Amount

Payments to Contractor are limited to the unpaid, obligated balance of the Contract Funds. The State shall not pay Contractor any amount under this Contract that exceeds the Contract Maximum for that term shown on the Signature and Cover Pages for this Contract.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Contractor in the amounts and in accordance with the Exhibits.
- b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State. Invoicing is a material component of Contract performance and corresponding Deliverables. Invoices shall be due to the State within 45 days of work performed by the Contractor, unless otherwise stated in the Exhibits hereto. Invoicing shall be done accurately and per any specifications set forth in the Exhibits hereto. Time is of the essence in this regard. If Contractor fails to timely and/or properly invoice the State, the State may not be obligated to pay the bill resulting from said invoice. Failure to timely and/or properly invoice the State is a material breach of this Contract which would be cause for the State to refuse payment and/or terminate the contract on these grounds in whole or in part, at the State's discretion.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Contract.

ii. Interest

v.4.11



Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the State in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Contractor beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Contract Funds the State's obligation to pay Contractor shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the State's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may, upon written notice, terminate this Contract, in whole or in part, without incurring further liability. The State shall, however, remain obligated to 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 Contract were terminated in the public

v.4.11



interest as described in §2.E.

V. Option to Increase Maximum Amount

If the Signature and Cover Pages for this Contract show that the State has the Option to Increase or Decrease Maximum Amount, then the State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Contract, and increase or decrease the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §23 “Sample Option Letter.” Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract. The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract.

6. Reporting – Notification

A. Quarterly Reports.

In addition to any reports required pursuant to §17 or pursuant to any other Exhibit, for any contract having a term longer than three months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State at the time or times specified by the State in this Contract, or, if no time is specified in this Contract, not later than five Business Days following the end of each calendar quarter.

B. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor’s ability to perform its obligations under this Contract, Contractor shall, within 5 days after being served, notify the State of such action and deliver copies of such pleading or document to the State’s principal representative identified on the Signature and Cover Pages for this Contract.

v.4.11



C. Performance Outside the State of Colorado or the United States, § 24-102-206 C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §15 and in a form designated by the State, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this section shall constitute a Breach of Contract. This section shall not apply if the Contract Funds include any federal funds.

7. Contractor Records

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of:

- i. the date three years after the date this Contract expires or is terminated,
- ii. final payment under this Contract is made,
- iii. the resolution of any pending Contract matters, or
- iv. if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the State, the federal government, and any duly authorized agent of a governmental entity, to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or

v.4.11



at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Audit Report

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor's records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

8. Confidential Information-State Records

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in writing by the State. Contractor 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 Contractor or any of its Subcontractors will or may receive the following types of data, Contractor 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 Contract 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

v.4.11



Policy for all CJ, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's Principal Representative.

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, Contractor shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall

v.4.11



be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State, at no additional cost to the State. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

Contractor shall ensure that all State Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

If Contractor or any of its subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State 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. Contractor 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., Contractor, including, but not limited to, Contractor'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. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification described in Section 21 below on an annual basis Contractor's duty and obligation to certify as set forth in Section 21 below shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any subcontractors to perform Services requiring direct access to state databases containing PII, Contractor shall require such subcontractors to

v.4.11



execute and deliver the certification to the State on an annual basis, so long as the subcontractor has access to State databases containing PII.

9. Conflicts of Interest

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of Contract.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Contract.

C. Disclosure To the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

D. Contractor acknowledges that all state employees are subject to the ethical principles described in §24-18-105, C.R.S. Contractor further acknowledges that state employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this contract.

10. Insurance

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract to the extent that such insurance policies are required as shown on the Signature

v.4.11



and Cover Page for this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State. These insurance requirements shall not be construed as caps or limitations on liability.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Protected Information

Liability insurance covering all civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and all loss income or extra expense as a result of actual or alleged breach, violation or infringement of a right to privacy, consumer data protection law, confidentiality or other legal protection for personal information as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.
- iii. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 10 or fewer individuals or revenues of \$250,000 or less, Contractor shall maintain limits of not less than \$50,000.

v.4.11



- iv. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 25 or fewer individuals or revenues of \$500,000 or less, Contractor shall maintain limits of not less than \$100,000.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

H. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

v.4.11



I. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary and noncontributory over any insurance or self-insurance program carried by Contractor or the State.

J. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §15 within seven days of Contractor's receipt of such notice.

K. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

L. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

M. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within seven Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within seven Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage

v.4.11



required under this Contract within seven Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. Breach of Contract

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in the Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

12. Remedies

A. State's Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Contract

In the event of Contractor's uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to the extent not terminated, if any.

a. Obligations and Rights

v.4.11



To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Contractor for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Contract had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

v.4.11



Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State, (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §11 and the dispute resolution process in §14, shall have all remedies available at law and equity.

13. State's Right of Removal

The State retains the right to demand, at any time, regardless of whether Contractor is in breach, the immediate removal of any of Contractor's employees, agents, or subcontractors from the work whom the State, in its sole discretion, deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State's best interest.

v.4.11



14. Dispute Resolution

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §14.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDHS as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §24-106-109, C.R.S., and §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

15. Notices and Representatives

Each individual identified on the Signature and Cover Pages shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Signature and Cover Pages for this Contract or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Signature and Cover Pages for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

v.4.11



16. Rights in Work Product and Other Information

A. Work Product

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Contractor hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Contractor cannot make any of the assignments required by this section, Contractor hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire. Contractor

v.4.11



assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of The State

Except to the extent specifically provided elsewhere in this Contract, all State Records, documents, text, software, (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Contractor are the exclusive property of the State (collectively, "State Materials"). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor's obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Contractor Property"). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement:

- i. entered into as exhibits to this Contract;
- ii. obtained by the State from the applicable third-party vendor; or
- iii. in the case of open source software, the license terms set forth in the applicable open source license agreement.

17. Statewide Contract Management System

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Contractor agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Contractor's performance shall be subject

v.4.11



to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller Policies.

18. General Provisions

A. Assignment

Contractor's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the State shall be subject to the provisions of this Contract.

B. Subcontracts

Unless other restrictions are required elsewhere in this Contract, Contractor shall not enter into any subcontract in connection with its obligations under this Contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any Work after that Subcontractor's subcontract has been rejected by the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in §18.A., all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

v.4.11



E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

v.4.11



J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

K. Order of Precedence

In the event of a conflict or inconsistency between this Contract and any Exhibits or attachments such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. HIPAA Business Associate Agreement (if any).
- ii. Federal Provisions (if any).
- iii. Colorado Special Provisions in §19 of the main body of this Contract.
- iv. Information Technology Provisions Exhibit (if any).
- v. The provisions of the other sections of the main body of this Contract.
- vi. PII Certification (if any)
- vii. Any other Exhibit(s) shall take precedence in alphabetical order.

L. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

M. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of the Contract.

N. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of the Contract and shall be enforceable by the other Party.

v.4.11



O. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq. C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Contract.

P. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §18.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

Q. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

R. Cora Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

S. Standard and Manner of Performance

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

v.4.11



T. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all licenses, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

U. Indemnification

i. Applicability

This entire §18.U does not apply to Contractor if Contractor is a “public entity” within the meaning of the GIA.

ii. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

iii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §8 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §8.

iv. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that

v.4.11



any Deliverable, Good or Service, software, or Work Product provided by Contractor under this Contract (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor’s obligations hereunder shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is (a) provided by Contractor or Contractor’s subsidiaries or affiliates; (b) specified by Contractor to work with the IP Deliverables; (c) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (d) is reasonably expected to be used in combination with the IP Deliverables.

V. Accessibility

- a. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the ***Accessibility Standards for Individuals with a Disability***, as established by the Governor’s Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- b. The State may require Contractor’s compliance to the State’s Accessibility Standards to be determined by a third party selected by the State to attest to Contractor’s Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the ***Accessibility Standards for Individuals with a Disability*** as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.
- c. Accessibility Indemnification: Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor’s failure to comply with §§24-85-101, et seq., C.R.S., or the ***Accessibility Standards for Individuals with a Disability*** as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

v.4.11



V. Other

i. Compliance with State and Federal Law, Regulations, & Executive Orders

Contractor shall comply with all State and, if Federal funding is involved, Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Contract.

19. Colorado Special Provisions (Colorado Fiscal Rule 3-3)

These Special Provisions apply to all contracts except where noted in {grey highlighted braces}.

A. Statutory Approval. § 24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Contract shall not be valid until it has been approved by the State’s Chief Information Officer or designee.

B. Fund Availability. § 24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. Governmental Immunity.

Liability for claims for injuries to persons or property arising from the negligence of the State, 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 the State’s risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract 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.

v.4.11



D. Independent Contractor.

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. Compliance With Law.

Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Choice of Law, Jurisdiction, and Venue.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. Prohibited Terms.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor'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. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109, C.R.S.

v.4.11



H. Software Piracy Prohibition.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. Employee Financial Interest/Conflict of Interest. § § 24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. Vendor Offset and Erroneous Payments. § § 24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for:

- i. unpaid child support debts or child support arrearages;
- ii. unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.;
- iii. unpaid loans due to the Student Loan Division of the Department of Higher Education;
- iv. amounts required to be paid to the Unemployment Compensation Fund; and
- v. other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any

v.4.11



other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

20. Department of Human Services Provisions

A. Exclusion, Debarment and/or Suspension

Contractor represents and warrants that Contractor, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a “federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. If Contractor, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Contract, Contractor shall notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the State may immediately terminate this Contract.

B. Emergency Planning

If Contractor provides Work that is an extension of State work performed as part of the State of Colorado Emergency Operations Plan or for a publicly funded safety net program, as defined by C.R.S. § 24-33.5-701 et seq., Contractor shall perform the Work in accordance with the State’s Emergency Operations Plan or continuity of operations plan in the event of an emergency. If requested, Contractor shall provide a plan and reporting information to ensure compliance with the State’s Emergency Operations Plan and C.R.S. § 24-33.5-701 et seq.

C. Restrictions On Public Benefits

If applicable, Contractor shall comply with C.R.S. §§ 24-76.5-101 - 103 exactly as the State is required to comply with C.R.S. §§ 24-76.5-101 - 103.

D. Discrimination

Contractor shall not:

- i. discriminate against any person on the basis of gender, race, ethnicity, religion, national origin, age, sexual orientation, gender identity, citizenship status, education, disability, socio-economic status, or any other identity.

v.4.11



- ii. exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.

Any person who thinks he/she has been discriminated against as related to the performance of this Contract has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-301, et seq.

E. Criminal Background Check

Pursuant to C.R.S. §27-90-111 and CDHS Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:

- i. submit to and successfully pass a criminal background check, and
- ii. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.

Any Contractor or its agent(s), who does not comply with C.R.S. §27-90-111 and CDHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.

F. Fraud Policy

Contractor shall comply with the current CDHS Fraud Policy.

G. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy)

Without any additional cost to the State, Contractor shall collect and maintain Contract performance data, as determined solely by the State. Upon request, Contractor shall provide the Contract performance data to the State. This provision does not allow the State to impose unilateral changes to performance requirements.

H. COVID-19 Pandemic

CDHS operates many facilities across the State and with regard to the COVID-19 Pandemic, Contractor may be subject to local or state public health orders, Department policy, individual facility policy, or any other requirement that could impose additional requirements on the Contractor. If so, Contractor shall promptly comply upon notice.

v.4.11



21. Third Party Certification for Access to PII Through a Database or Automated Network

Pursuant to § 24-74-105, C.R.S., if Contractor is to be granted access to Personal Identifying Information through a database or automated network that is not publicly available information, Contractor certifies, and will certify annually, under penalty of perjury that Contractor has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

If Contractor’s agents, employees, assigns or Subcontractors require certification pursuant to § 24-74-105, C.R.S., Contractor shall require annually that its agents, employees, assigns or Subcontractors sign and date the following certifications as applicable, which shall be made available to the State upon request:

For an individual: Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

For and entity/organization: Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of entity / organization) (the “Organization”), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

v.4.11



22. Federal Provisions

A. Applicability of Provisions.

- i. This Federal Provisions section shall apply in the event that the Contract is funded, in whole or in part, with an Award of Federal funds. Contractor shall confirm with their CDHS Contact for their Contract if this Contract is funded in whole or in part by federal funds. Where Federal funds are not used to fund this Contract, then this Federal Provisions section shall not apply, but remains in this Contract due to the template nature of this Contract.
- ii. If the Contract is funded in whole or in part with Federal funds, and in the event of a conflict between this Federal Provisions section, the Special Provisions, the body of the Contract, or any attachments or exhibits made a part of the Contract, the provisions of this Federal Provisions section shall control. Exceptions to this are as follows:
 - a. If the Supplemental Provisions for Federal Awards Exhibit is attached to this Contract, then in the event of a conflict amongst provisions, the Supplemental Provisions for Federal Awards exhibit shall control over the provisions of this Federal Provisions section.
 - b. If the SLFRF Subrecipient Provisions Exhibit is attached to this Contract, then in the event of a conflict amongst provisions, the SLFRF Subrecipient Provisions Exhibit shall control over the provisions of this Federal Provisions section.

B. Compliance.

- i. Contractor shall comply with all applicable provisions of the Transparency Act (the Federal Funding Accountability and Transparency Act of 2006 [Public Law 109-282], as amended by section 6202 of Public Law 110-252) all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

v.4.11



C. System for Award Management (SAM) and Unique Entity Id Requirements.

- i. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- ii. Unique Entity ID. Contractor shall provide its Unique Entity ID to its Recipient, and shall update Contractor's information at <http://www.sam.gov> at least annually after the initial registration, and more frequently if required by changes in Contractor's information.

D. Contract Provisions Required by Uniform Guidance Appendix II To Part 200.

- i. **Contracts for more than the simplified acquisition threshold**, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. The simplified acquisitions threshold is \$250,000
- ii. **All contracts in excess of \$10,000 must address termination for cause and for convenience** by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- iii. **Equal Employment Opportunity**. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- iv. **Davis-Bacon Act**, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the

v.4.11



current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- v. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- vi. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- vii. **Clean Air Act (42 U.S.C. 7401-7671q.) and the federal Water Pollution Control Act (33 U.S.C. 1251-1387),** as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-

v.4.11



- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- viii. **Debarment and Suspension** (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- ix. **Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- x. **Prohibition on certain telecommunications and video surveillance services or equipment §2 CFR 200.216**
- a. Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:
 - 1) Procure or obtain;
 - 2) Extend or renew a contract to procure or obtain; or
 - 3) Enter into a contract (or extend a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- xi. **Contracts with small and minority businesses, women's business enterprises, and labor surplus area firms. (2 CFR §200.321).** The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- xii. **Domestic preferences for procurements. (2 CFR §200.322)** As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum,

v.4.11



steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

- xiii. **Procurement of recovered materials. (2 CFR §200.323)** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

E. Termination for Convenience of the Government

- i. Pursuant to §4.2 of these Federal Provisions, the State of Colorado may terminate this contract, in whole or in part, when it is in the Government's interest. Solicitations and contracts shall include clauses as required by FAR 49.502 (2023). Termination for convenience of the government shall comply with the following provisions of the Federal Acquisition Regulations:
- a. For Fixed Price Contracts: FAR 52.249-2 (2023)
 - b. For Contracts for Personal Services: FAR 52.249-12 (2023)
 - c. For Construction Contracts for Dismantling, Demolition, or Removal of Improvements: FAR 52.249-3 (2023)
 - d. For Educational and Other Nonprofit Institutions: FAR 52.249-5 (2023)

F. Event of Default.

- i. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

v.4.11



23. Sample Option Letter

SAMPLE OPTION LETTER (If Applicable)

1. State Agency

[Insert Department’s or IHE’s Full Legal Name]

2. Contractor

[Insert Contractor’s Full Legal Name, including “Inc.”, “LLC”, etc...]

3. Current Contract Maximum Amount

Initial Term

[State Fiscal Year 20xx \$0.00]

Extension Terms

[State Fiscal Year 20xx \$0.00

State Fiscal Year 20xx \$0.00

State Fiscal Year 20xx \$0.00

State Fiscal Year 20xx \$0.00]

Total for All State Fiscal Years [\$0.00]

Option Letter Number

[Insert the Option Number (e.g. “1” for the first option)]

4. Original Contract Number

[Insert CMS number or Other Contract Number of the Original Contract]

5. Option Contract Number

[Insert CMS number or Other Contract Number of this Option]

Contract Performance Beginning Date

[Month Day, Year]

Current Contract Expiration Date

[Month Day, Year]

1. Options:

- Option to extend for an Extension Term
- Option to change the quantity of Goods under the Contract
- Option to change the quantity of Services under the Contract
- Option to modify Contract rates
- Option to initiate next phase of the Contract

• Required Provisions:

- A. **%For use with Option 1(A):%** In accordance with Section(s) [Number] of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning [Insert start date] and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.
- B. **%For use with Options 1(B and C):%** In accordance with Section(s) [Number] of the Original Contract referenced above, the State hereby exercises its option to [Increase/Decrease] the quantity of the [Goods/Services or both] at the rates stated in the Original Contract, as amended.

v.4.11



- C. **%For use with Option 1(D):%** In accordance with Section(s) [Number] of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in [Exhibit/Section] [Number/Letter]. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.
 - D. **%For use with Option 1(E):%** In accordance with Section(s) [Number] of the Original Contract referenced above, the State hereby exercises its option to initiate Phase [indicate which Phase: 2, 3, 4, etc.,] which shall begin on [Insert start date] and end on [Insert ending date] at the cost/price specified in Section [Number].
 - E. **%For use with all Options that modify the Contract Maximum Amount:%** The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.
- **OPTION EFFECTIVE DATE:**

The effective date of this Option Letter is upon approval of the State Controller [or [____]], whichever is later].

Sample Only - Do Not Sign

Signature page begins on next page.

v.4.11



STATE OF COLORADO

Jared Polis, Governor

[INSERT-Name of Agency or IHE]

[INSERT-Name & Title of Head of Agency or IHE]

By: Name & of Title Person Signing for Agency or IHE

Date: _____

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: Telly Belton/Toni Williamson/Amanda Rios

Option Effective Date: _____

In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated above by the State Controller or an authorized delegate.

Sample Only - Do Not Sign

Exhibit A - Statement of Work

Article 1

Purpose and Target Population

1.1 Purpose

Co-Responder Programs (“Programs”) create and foster partnerships between behavioral health professionals and law enforcement, (which may include other first responders if necessary). Co-Responder Programs identify calls for police service where behavioral health (mental health and/or substance use) appear to be a relevant factor and then provide effective responses to individuals in crisis and those with behavioral health needs. The law enforcement officer and the behavioral health specialist’s combined expertise aims to improve de-escalation of situations, deflect individuals away from involvement with the criminal justice system and/or unnecessary hospitalization, and link them to appropriate services.

Taking population density and other available resources into consideration, the program and team structure varies between locations to best meet the needs of the community and the partnering agencies. There are generally two approaches, a primary or secondary response model. A primary response is that which the clinician is paired with an officer for joint response, and typically the officer’s time is dedicated to the program; Secondary response is that which the clinician responds to requests from officers or dispatch and is not generally paired directly with an officer.

The purpose of this project is to create, sustain, or expand Co-Responder Programs, which dispatch behavioral health Co-Responders along with law enforcement, or provide a joint secondary response on calls for service wherein behavioral health appears to be a relevant factor. The behavioral health provider can provide assessment, crisis intervention services, and referrals on scene. They may also provide follow-up and connections to additional resources when necessary.

1.2 Target Population

Individuals who have been brought to the attention of law enforcement and appear to be experiencing a behavioral health crisis or who have other behavioral health needs, as determined by the awarded Contractor and their Program policies. This includes individuals at risk for low-level offenses, misdemeanor crimes, and individuals who have had repeated contact with law enforcement. The awarded Contractor may expand eligibility criteria to meet specific community needs.

Article 2

Definitions and Acronyms

- 2.1 **“BAA”** means Business Associate Agreement, as defined in Exhibit C - HIPAA Business Associate Addendum - Qualified Service Organization Addendum.
- 2.2 **“BHA”** means Behavioral Health Administration established in Section 27-50-102, C.R.S.
- 2.3 **“CDHS”** means Colorado Department of Human Services which is the principal department of the Colorado state government that operates the state's social services.
- 2.4 **“Co-Responder Program”** means Co-Responder Programs, which dispatch behavioral health Co-Responders along with law enforcement, or provide a joint secondary response on calls for service wherein behavioral health appears to be a relevant factor.
- 2.5 **“Contract”** means this statement of work, including all other Exhibits associated with this Request for Applications (RFA). Hereinto incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- 2.6 **“Contractor”** means the awarded party with whom the BHA will enter into an agreement.
- 2.7 **“Critical Incident”** means a situation in which death, physical assault and/or serious injuries are sustained by Program staff or clients that occurs during a Co-Responder intervention or response.
- 2.8 **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996.
- 2.9 **“Program”** means Co-Responder program.
- 2.10 **“Program/Project Manager”** means the person responsible and accountable for managing the Contractor's Co-Responder Program.
- 2.11 **“Program Coordination Group”** means the group that oversees the Program's implementation and progress.
- 2.12 **“RNR”** means the Risk-Need-Responsivity model of assessment and treatment to determine risk of recidivism, criminogenic needs, and responsivity of interventions.
- 2.13 **“Steering Committee”** means the group responsible for guiding any changes or issues around the implementation and development of the Program.

Article 3 Activities and Services

3.1 Allowable Uses of Funding

The Contractor may use funds to support, with the approval of BHA, items including but not limited to, the following:

- (a) Program personnel, project management and community engagement.
- (b) Temporary services and treatments necessary to stabilize a participant's condition, including necessary housing.
- (c) Outreach.
- (d) Direct costs for services.
- (e) Specialized program training.
- (f) Dedicated law enforcement resources, including overtime required for participation in operational meetings and training.
- (g) Training and technical assistance from experts in the implementation of Co-Responder Services Programs in other jurisdictions.
- (h) Collecting and maintaining the data necessary for program evaluation.

3.2 Work Plan

- (a) The Contractor shall provide BHA with a Work Plan as part of the application, using the BHA-provided template, for review and approval. See RFA Exhibit G - Co-Responder Work Plan document.
- (b) The Contractor shall meet with BHA monthly to review progress on the work plan.
- (c) An updated Work Plan must be submitted on an annual basis, at a minimum, for review and approval.
 - i. Report Title: Revised Work Plan
 - ii. Deadline: Due 30 days from Contract Effective Date and annually thereafter
 - iii. Deliverables: Program Manager shall provide email address during contract execution process

3.3 The Contractor shall respond to communications from the BHA within five (5) calendar days.

3.4 Start-up Period for Project Development

The Contractor shall be permitted a start-up period of up to three (3) months from the date of execution of the contract. At the end of this period, the Contractor shall be expected to have all required program partnerships and contracts finalized and be ready

to begin program operations. If the Contractor is unable to implement the program within three months' time, the Contractor will be placed on a performance improvement plan and the Contractor shall work with BHA on drafting and meeting this performance improvement plan.

3.5 Steering Committee

(a) The Contractor shall develop and maintain a Steering Committee to oversee the implementation and ongoing development of the Program for the duration of the Contract term. The Steering Committee shall meet at least biannually to discuss, problem-solve and/or guide any changes or issues around the implementation and ongoing development of the Program. The Steering Committee shall include high-level, decision-making representatives from each of the key local stakeholder disciplines listed below:

- i. Lead law enforcement agency representative.
- ii. Behavioral health service provider representative.
- iii. Impacted individual and/or consumer or family member.
- iv. Local hospital representative and;
- v. Crisis Services representative.

(b) The Contractor shall also include other entities in the Steering Committee, which in its determination, are integral to the success of the Program. Entities may include prosecutors, jail administrators, advocacy groups, and harm reduction agencies.

(c) The Steering Committee shall be charged with the following:

- i. To perform an initial examination of the nature of the problem to help develop the Program's objectives and design.
- ii. To consider how the Program relates to other local criminal justice or behavioral health partnerships that may be in place or are in the process of being established.
- iii. To support a forum for planning decisions during the implementation phase, and to provide ongoing leadership, problem-solving and design modifications throughout the life of the Program.
- iv. To designate appropriate staff to make up a Program Coordination Group.
- v. To identify any barriers to the Program's success and help reduce and resolve the impacts of barriers on the Program (such as identification of facilities).

vi. To develop procedures to ensure that essential information is shared in an appropriate and timely manner.

- 1) Report Title: Steering Committee & Program Coordination Group Rosters
- 2) Deadline: Sixty (60) days after contract execution and as updated
- 3) Deliverables: cdhs_bhadeliverables@state.co.us

3.6 Program Coordination Group

(a) The Contractor shall develop and maintain a Program Coordination Group to guide and support the Program operations. If the creation of two separate groups is unrealistic due to workforce and/or resource limitations, this Program Coordination Group may be the same as the Steering Committee.

(b) The Program Coordination Group shall:

- i. Oversee officer and Program training implementation, as specified in Article 3.11 below.
- ii. Measure the Program’s progress toward achieving stated goals.
- iii. Resolve ongoing challenges to the Program’s effectiveness; and
- iv. Inform agency leaders and other policymakers of Program costs, developments, and progress.

(c) The Contractor shall designate a law enforcement Program Champion within each partnering law enforcement agency to serve as the agency’s representative on the Program Coordination Group.

- 1) Report Title: Steering Committee & Program Coordination Group Rosters
- 2) Deadline: Sixty (60) days after contract execution and as updated
- 3) Deliverables: cdhs_bhadeliverables@state.co.us

3.7 Program Manager

The Contractor shall select a Program/Project Manager (“Manager”), and establish the Manager’s role, responsibilities, and authority, which shall include support of the Steering Committee and the Program Coordination Group. The Program Manager is the point person for BHA through the life of the contract. The Contractor shall communicate via email to BHA any changes to the Manager’s contact information within one business day of change.

3.8 Project Director

Contractor shall identify a Project Director who is employed by the Contractor and has decision making authority for the Contractor. The Project Director holds overall

responsibility for ongoing program administration and fiscal oversight initially and is the point of contact for BHA through the contracting process, if awarded. The Contractor shall communicate via email to BHA any changes to the Director's contact information within one business day of change

3.9 Partnership Agreements

The Contractor shall develop partnership agreements with other local criminal justice agencies, behavioral health agencies or government agencies, to address any key challenges inherent in multidisciplinary collaboration. Partnership agreements shall include a description of how partners collectively identified the need for the project, and individualized letters of support outlining each partner's level of participation and commitment in the Program, responsibilities to the Program (policy and/or operational), resources they will contribute, and processes in collecting and sharing data. The Contractor, or any other party or partnership, does not have authority to negotiate or enter into any agreements on behalf of CDHS or the BHA.

- (a) Report Title: Partnership Agreement(s)
- (b) Deadline: Upon execution of a partnership agreement(s)
- (c) Deliverables: The Program Manager shall provide an email address during the contract execution process

3.10 Data Sharing Agreements

The Contractor shall ensure a data-sharing Business Associates Agreement ("BAA") is developed and put in place between the partner agencies, as applicable by law. The data-sharing agreement shall ensure that each partner agency complies with the terms of the HIPAA-BAA and 42 CFR Part 2.

3.11 Program, Policies, and Procedures

- (a) The Contractor shall develop and maintain Program policies and procedures, subject to BHA review and approval.
- (b) The Contractor shall submit a draft copy of each of the policies and procedures required under this Section 3.10 (Program Policies and Procedures), to BHA for review and comment. The Contractor shall work with BHA to resolve all comments from BHA and incorporate any agreed revisions in the final policies and procedures.
 - i. Report Title: Program Policies and Procedures Document
 - ii. Deadline: Draft document due to BHA ninety (90) days from Contract Effective Date. Final document due to BHA thirty (30) days from reviewed

draft sent from BHA to Contractor. Subsequent updates to policies and procedures due to BHA within ten (10) days of changes

- iii. Deliverables: Program Manager shall provide email address during contract execution process.

(c) The Contractor shall ensure that specific policies and procedures are developed and implemented for the following aspects of the Program.

- i. Target Population and Eligibility Criteria

The Contractor shall identify the target population, develop eligibility criteria, and develop Program policies to identify individuals who will be referred to the Program. The Contractor shall ensure that the referrals include individuals at risk for low-level offenses and misdemeanor crimes and individuals who have had repeated contact with law enforcement. The Contractor may expand eligibility criteria to meet specific community needs.

- ii. Call Taker and Dispatcher

The Contractor shall develop, or ensure the development of, policies and procedures for call takers and dispatchers. These shall include, but are not limited to:

- 1) The specific information call takers must gather from calls.
- 2) Policies specifying the means by which dispatchers are informed of staffing patterns, including up to date information during shifts.
- 3) Clear definitions of the geographic coverage areas designated and eligible for law enforcement and behavioral health Co-Responder calls.

(d) Stabilization, Observation, and Disposition

The Contractor shall develop policies and procedures to help guide law enforcement officers and/or behavioral health Co-Responders resolve encounters with the least restrictive environment appropriate for the circumstances.

(e) Transportation and Custodial Transfer

The Contractor shall develop policies and procedures to help guide effective and efficient transportation and custodial transfers. The policies shall at a minimum:

- i. Identify facilities capable of assuming custodial responsibility, which are available at all times, have personnel qualified to conduct a behavioral health evaluation, and do not turn away people brought by law enforcement without specific reasons.

- ii. Establish resources to connect individuals with, including friends, family members, peer support groups, or crisis centers, when available in non-custodial situations.
- iii. Engage the services of the individual’s current behavioral health provider or a crisis team.

(f) Critical Incident Policy

Contractor shall develop and maintain a policy for review of critical incidents (including death, physical assault and/or serious injuries sustained by Program staff or clients) (“Critical Incidents”) that occur during a Program intervention or response and adhere to Critical Incident Reporting in Section 3.18.

(g) Information Exchange and Confidentiality

The Steering Committee shall develop procedures to ensure that essential information is shared in an appropriate manner. Information shall be shared in a way that protects individuals’ confidentiality rights as treatment consumers and constitutional rights as possible defendants. Individuals with behavioral health disorders who have been in contact with a behavioral health agency should be offered an opportunity to provide consent in advance for behavioral health providers to share specified information with law enforcement authorities if an incident occurs (sometimes called an advance directive).

3.12 Program Training and Cross-Training

(a) State Program Meeting Requirements.

The Contractor shall attend an orientation session (mandatory only in the Contractor’s first year under the Program), monthly Program progress status meetings with the BHA manager, and other required Program meetings and training throughout the term of the Program.

- i. Report Title: Monthly Program Progress Status meetings
- ii. Deadline: Monthly (day and time shall be mutually agreed upon after contract execution)
- iii. Deliverables: Program Manager shall provide virtual meeting link upon identifying mutually agreed upon day and time

(b) Contractor Training

The Contractor shall provide necessary training for Contractor’s Program to include:

i. Officer Training

The Contractor shall provide officer training to improve officers' responses to people with behavioral health needs and to educate officers on the Program. The Contractor shall determine the amount of training necessary to ensure, at a minimum, that there is a group of officers sufficient to cover all time shifts and geographic districts.

ii. Cross-Training

The Contractor shall provide opportunities to behavioral health personnel and other stakeholders to help improve cross-system understanding of agencies' roles and responsibilities, law enforcement issues, program policies and procedures, information sharing, safety, and other opportunities to see policies translated into action.

3.13 Service Area

The Contractor shall define the service area that best meets the community's needs and submit to BHA for approval.

3.14 Individualized Service Provision

The Contractor's Program shall link individuals referred to or contacted by the Program to community-based behavioral health supports and services, as appropriate.

3.15 The Non-Displacement of Resources

The Contractor shall ensure Program participants do not receive preferential access to resources if it would prevent others on waitlists, or who had previously secured a resource, from being served.

3.16 Evidence-Based Practices

The Contractor shall use evidence-based and promising practices within the screening and service delivery structure, as appropriate, to support effective outcomes. The use of a risk/need/responsivity (RNR) model is encouraged to assess various factors such as substance use disorders, mental illness, cognitive or physical impairments, financial issues, family dynamics, housing instability, developmental disabilities, low literacy levels, and lack of reliable transportation, all of which may need to be addressed to support success.

3.17 Staff Time Tracking and Invoicing

The Contractor shall ensure expenses and staff time are tracked and invoiced separately for each Program or funding stream.

3.18 Subcontractor or Partnership Contract Execution and Termination

The Contractor shall submit all their subcontract copies related to this project to cdhs_bhadeliverables@state.co.us upon execution of the contract or within thirty (30) days of subcontract execution. In the event of a termination of a partnership with a subcontractor, such as a case management, service provider, or individuals providing these services internally the Contractor shall transition to a new partnership no later than thirty (30) days from termination to ensure continuity of care for all participants of the Program. The Contractor shall communicate any subcontractor termination via email to the BHA Program Manager within one (1) business day.

(a) Report Title: Subcontractor Executed Copies

(b) Deadline: Upon execution of subcontracts

(c) Deliverables: cdhs_bhadeliverables@state.co.us

3.19 Critical Incident Reporting

If a Critical Incident (including death, physical assault and/or serious injuries sustained by Program staff or clients) occurs during a Co-Responder intervention or response, the Contractor shall make the appropriate selection on the BHA data collection form and inform the BHA Program Manager within three (3) days to determine any additional actions.

3.20 Period of Performance

From contract execution - June 30, 2026. Potential renewal of contract is subject to approval by the BHA Program Manager for each state fiscal year, if funding allows, and is subject to compliance and contract performance. State fiscal years end on June 30th. New fiscal years begin July 1st.

Article 4

Minimum Qualifications

4.1 The Contractor shall create, sustain, or expand a Co-Responder program in the community they serve.

4.2 The Contractor shall partner with behavioral health specialists to best meet the needs of the community and partnering agencies, taking population density and other available resources into consideration.

4.3 Behavioral health Co-Responders shall be dispatched along with law enforcement or may provide a joint secondary response on these calls.

- 4.4 The behavioral health provider shall offer assessment and crisis intervention services at the scene, provide referral information to the individual, and provide follow-up, when necessary.
- 4.5 The Contractor shall implement and maintain the Program for its community by collaborating with key stakeholders to ensure service delivery, training, and resource coordination.
- 4.6 The Contractor shall collect data, measure outcomes, and report Program outcomes to the State to assist in determining the effectiveness of the Program.
 - (a) Report Title: Monthly data reporting
 - (b) Deadline: Fifteen (15) days after the end of the reporting month
 - (c) Deliverables: cdhs_bhadeliverables@state.co.us

Article 5
Deliverables

5.1 Deliverables Table

The Contractor shall provide the deliverables in accordance with the dates outlined in the table below to cdhs_bhadeliverables@state.co.us, unless otherwise specified. Deliverable deadlines occurring after contract end date are contingent upon contract renewal. Deadlines may be altered administratively.

Deliverable (emailed to cdhs_bhadeliverables@state.co.us)	Deadline	Contract Reference
Revised Work Plan	Due 30 days from Contract Effective Date and annually thereafter	Exhibit A, SOW, Article 3.2
Program Policies and Procedures Document	During implementation phase: 1. Draft document due to BHA ninety (90) days from Contract Effective Date. 2. Final document due to BHA thirty (30) days from reviewed draft sent from BHA to Contractor.	Exhibit A, SOW, Article 3.10

	Subsequent updates to policies and procedures due to BHA within ten (10) days of changes.	
Partnership agreement(s) copies	Upon execution of partnership agreement(s)	Exhibit A, SOW, Article 3.8
Monthly Progress Status Meeting	Monthly	Exhibit A, SOW, Article 3.11
Data reporting (Using BHA provided template upon the contract execution)	Fifteen (15) days after the end of the reporting month	Exhibit A, SOW, Article 4.6
Subcontract(s) copies	Upon execution of subcontract(s)	Exhibit A, SOW, Article 3.17
Steering Committee and Policy Coordination Group Member Rosters	Sixty (60) days after contract execution and as updated	Exhibit A, SOW, Articles 3.5 and 3.6

Article 6

Performance Outcome Measures

6.1 Measure: Number of referrals received and responded to by Program

Outcome Goal: Of the total number of Program referrals, 70% or more will receive a response.

6.2 Measure: Number of calls that do not result in arrest.

Outcome Goal: Of the total number of active Co-Responder calls, 90% or more will not result in arrest when there is no cause for mandatory arrest (at the discretion of the officer).

6.3 Measure: Number of interventions, services and resource linkage provided to individuals contacted by the Program.

Outcome Goal: Of the total number of individuals contacted, 70% will receive one or more intervention, service, or linkage to resources.



COLORADO
Behavioral Health
Administration

Exhibit B: FY26 Annual Budget

BHA Program	Co-Responder
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Agency Name	Littleton Police Department	Program Contact Name, Title	Commander Hal Mandler
		Phone	303-795-3889
		Email	hmandler@littletongov.org
Budget Period	FY 26: 07.01.2025 - 06.30.2026	Fiscal Contact Name, Title	Commander Hal Mandler
		Phone	303-795-3889
		Email	hmandler@littletongov.org
Project Name	Littleton Police Department Co-Responder Program	Date Completed	4/3/2025

All budget numbers are estimates. Contract billing will be on a cost reimbursement basis for actual expenses incurred.

Expenditure Categories					
Personnel Services / Salaried Employees					Annual Budget
Position Title	Description of Work	Gross or Annual Salary	Fringe	Percent of Time on Project	Total Amount Requested from BHA
					\$ -
Personnel Services / Hourly Employees					Annual Budget
Position Title	Description of Work	Hourly Wage	Hourly Fringe	Total # of Hours on Project	Total Amount Requested from BHA
					\$ -
Total Personnel Services (including fringe benefits)					\$ -
Contractors / Consultants (payments to third parties or entities)					Annual Budget
Contractor Name	Description of Work	Rate	Quantity	Total Amount Requested from BHA	
AllHealth Network	Two co-responder positions (personnel are embedded within the Police Department, riding with officers responding to 9-1-1 calls to de-escalate, assess, and provide crisis interventions) - to include hourly rate, shift differential, overtime, benefits, and payroll taxes	\$ 14,666.00	1	\$ 14,666.00	
AllHealth Network	One Crisis Case Manager position (embedded in the Police Department, riding with officers responding to high resource needs, unhoused population, and complete cases) - to include hourly rate, shift differential, overtime, benefits, and payroll taxes	\$ 70,034.00	1	\$ 70,034.00	

AllHealth Network	Program Manager who provides clinical supervision of all clinical personnel and completed administrative work such as scheduling, programming, timesheets, etc.	\$ 23,835.00	1	\$ 23,835.00
Total Contractors/Consultants				\$ 108,535.00
Subawards				Annual Budget
Contractor Name	Description of Work	Rate	Quantity	Total Amount Requested from BHA
				\$ -
Total Subawards				\$ -
Travel				Annual Budget
Contractor Name	Description of Work	Rate	Quantity	Total Amount Requested from BHA
				\$ -
Total Travel				\$ -
Supplies & Operating Expenses				Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA
				\$ -
Total Supplies & Operating Expenses				\$ -
TOTAL DIRECT COSTS (TDC)				\$ 108,535.00
Exclusions from Indirect Cost Base expenses per OMB 2CFR § 196				
Subaward in excess of \$50,000				\$ -
Rent				\$ -
Equipment				\$ -
Other				\$ -
Total Expenses per OMB 2CFR § 200				\$ -
MODIFIED TOTAL DIRECT COSTS (MTDC)				\$ 108,535.00
Indirect Costs				Annual Budget
Indirect Cost	Description of Item	Percentage		Total Amount Requested
				\$ -
Total Indirect				\$ -
TOTAL Request				\$ 108,535.00

The Parties may mutually agree, in writing, to modify the Budget administratively using an BHA Budget Reallocation form

Exhibit C - Miscellaneous Provisions

I. General Provisions and Requirements

A. Finance and Data Protocols

The Contractor shall comply with the Behavioral Health Administration's (BHA) most current Finance and Data Protocols and the Behavioral Health Accounting and Auditing Guidelines, made a part of this Contract by reference.

B. Marketing and Communications

The Contractor shall comply with the following marketing and communications requirements:

1. Reports or Evaluations.

All reports or evaluations funded by BHA must be reviewed by BHA staff, including program, data, and communications, over a period of no fewer than fifteen business days. The Contractor may be asked to place a report or evaluation on a BHA template and the report or evaluation is required to display the BHA logo. The Contractor shall submit the finished document to BHA in its final format and as an editable Word or Google document.

2. Press Releases.

All press releases about work funded by BHA must note that the work is funded by the Colorado Department of Human Services, Behavioral Health Administration. Press releases about work funded by BHA must be reviewed by BHA program and communications staff over a period of no fewer than five business days.

3. Marketing Materials.

Contractor shall include the current Colorado Department of Human Services, Behavioral Health Administration logo on any marketing materials, such as brochures or fact sheets, that advertise programs to be funded by this Contract. Contractor shall submit marketing materials to BHA Communications Team for approval prior to release. BHA's Communications Team shall provide feedback or approval within five business days

4. All Other Documents.

All other documents published by the Contractor about its BHA-funded work, including presentations or website content, should mention the Colorado Department of Human Services, Behavioral Health Administration as a funder.

5. Opinion of BHA.

BHA may require the Contractor to add language to documents that mention BHA reading: “The views, opinions and content expressed do not necessarily reflect the views, opinions or policies of the Colorado Department of Human Services, Behavioral Health Administration.”

C. Start-Up Costs

If the State reimburses the Contractor for any start-up costs and the Contractor closes the program or facility within three years of receipt of the start-up costs, the Contractor shall reimburse the State for said start-up costs within sixty days of the closure. The Contractor is not required to reimburse the State for start-up costs if the facility or program closure is due to BHA eliminating funding to that specific program and/or budget line item.

D. Immediate Notification of Closures or Reductions in Force

If the Contractor intends to close a facility or program, it shall notify the BHA Contracts Unit at least five business days prior to the closure. Similarly, if the Contractor, or any sub-contractor provider, intends to conduct a reduction in force which affects a program funded through this contract, the Contractor shall notify the BHA Contracts Unit at least five business days prior to the layoffs.

E. Licensing and Designation Database Electronic Record System (LADDERS)

The Contractor shall use LADDERS (<http://www.colorado.gov/ladders>) as needed and/or as required by rule to submit applications for BHA licensing and designation, keep current all provider directory details, and submit policies and procedures.

F. Contract Contact Procedure

The Contractor shall submit all requests for BHA interpretation of this Contract or for amendments to this Contract to the BHA Contract Manager.

G. Procurement Requirement

The Contractor shall comply with all the provisions and requirements of RFP, IBEH, 20250000152 and with Contractor’s solicitation response thereto.

H. Continuity of Operations Plan

1. In the event of an emergency resulting in a disruption of normal activities, BHA may request that Contractor provide a plan describing how Contractor will ensure the execution of essential functions of the Contract, to the extent possible under the circumstances of the inciting emergency (“Continuity of Operations Plan” or “Plan”).
2. The Continuity of Operations Plan must be specific and responsive to the circumstances of the identified emergency.
3. BHA will provide formal notification of receipt of the Continuity of Operations Plan to the Contractor.
4. The Continuity of Operations Plan will not impact or change the budget or any other provisions of the contract, and Contractor's performance will be held to the same standards and requirements as the original Contract terms, unless otherwise specified in the Continuity of Operations Plan.
 - a. Any submitted Continuity of Operations Plan will be ratified as an amendment to the contract as soon as possible.
5. Contractor shall communicate, in a format mutually agreed upon by BHA and Contractor staff, on a frequency that supports the monitoring of services under the Continuity of Operations Plan. If adjustments are needed to the Plan, such adjustments will be made in writing and accompanied by written notice of receipt from BHA.
 - a. As part of the BHA/Contractor communication during the emergency, Contractor and BHA will evaluate whether the emergency has resolved such that normal operations may be resumed.
 - b. Contractor and BHA will agree in writing when the emergency is sufficiently resolved and agree to a closeout period that is four weeks or less.
 - c. BHA will submit notice accepting the termination of the Continuity of Operations Plan to the Contractor as the final action for any qualifying emergency response.

I. Cultural Responsiveness in Service Delivery

1. The Behavioral Health Administration expects funding dollars to support equity in access, services provided, and behavioral health outcomes among individuals of all cultures, gender identities, sexual orientations, races, and ethnicities. Accordingly, Contractors should collect and use data to: (1) identify priority populations vulnerable to health disparities encompassing the contractor's entire geographic service area (e.g., racial, ethnic, limited English speaking, indigenous, sexual orientation, gender identity groups, etc.) and (2) implement strategies to decrease the disparities in access, service use, and outcomes—both within those subpopulations and in comparison to the general population.
2. One strategy for addressing health disparities is the use of the recently revised National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (CLAS). The U.S. Department of Health and Human Services (HHS) Think Cultural Health website (<https://thinkculturalhealth.hhs.gov>) also features information, continuing education opportunities, resources, and more for health and health care professionals to learn about culturally and linguistically appropriate services, or CLAS.
3. Contractors providing direct behavioral health prevention, treatment, or recovery services shall submit one of the following two documents to cdhs_BHAdeliverables@state.co.us by August 31 annually:
 - a. If a provider has completed an equity plan that identifies how they will address health equity, they can submit the plan or
 - b. Submit a completed CLAS checklist that follows this HHS format: <https://thinkculturalhealth.hhs.gov/assets/pdfs/AnImplementationChecklistfortheNationalCLASStandards.pdf>

J. Prohibition on Marijuana

Funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

K. Monitoring Requirements

If the Contractor is a subrecipient of federal funds, the Contractor shall comply with monitoring requirements indicated by the Contractor's risk level determined by the subrecipient risk assessment form completed by Contractor, which may include but are not limited to:

1. Monthly or quarterly monitoring calls
2. Invoice supporting documentation, for example: timesheets, logs of travel, or wraparound service costs
3. Routine programmatic reports
4. Technical assistance and training
5. Site visits

II. Use of Subcontracts

- A. Services described in this Contract may be performed by Contractor or by a subcontractor, except where this Contract states explicitly that a service must not be subcontracted.
- B. Contractor shall ensure that its subcontractors perform to the terms of this Contract as set forth in the Contract provisions.
- C. Any subcontract for services must include, at a minimum, the following:
- D. The Contractor shall provide to BHA a copy of any proposed subcontract between the Contractor and any potential provider of services to fulfill any requirements of this Contract, to cdhs_BHAdeliverables@state.co.us within thirty days of subcontract execution.

1. A description of each partner's participation
 2. Responsibilities to the program (policy and/or operational)
 3. Resources the subcontractor will contribute, reimbursement rates, services to be included and processes in collecting and sharing data and the most recent CDHS version of the HIPAA Business Associates Addendum, if this Contract contains the HIPAA Business Associates Addendum/Qualified Service Organization Addendum as an exhibit
 4. A copy of this Contract and all its terms and conditions
- E. BHA reserves the right to require Contractor to renegotiate subcontracts where necessary to adhere to the terms of this Contract.
- F. Subcontractor/Partnership Termination. In the event where partnerships with a subcontractor such as a treatment provider is terminated, the Contractor shall transition to a new partnership no later than thirty days from termination to ensure continuity of care for all participants of the program.

III. Financial Requirements

A. Funding Sources

The Contractor shall identify all funds delivered to subcontractors as state general fund, state cash funds, or federal grant dollars in Exhibit B, "Budget." If federal grant dollars, the Contractor shall communicate the CFDA number to all sub-contractors in their sub-contracts.

B. Program Income

Program income generated through grant funded programs are additive funding that must be utilized for a consistent purpose as outlined in 2 CFR 200.307(e)(2). If Contractor charges and receives fees for services, or otherwise receives income associated with the sponsored program, this is considered program income and is required to be tracked and managed in accordance with the conditions of the award.

C. Budget Reallocations

The Contractor may reallocate funds between the budget categories of this contract, up to ten percent of the total contract amount, upon written approval by BHA, without a contract amendment. Any allowable reallocation is still subject to the limitations of the Not to Exceed and the Maximum Amount Available per Fiscal Year.

D. Payment Terms

1. The Contractor shall invoice monthly for services, no later than the twentieth of the month following when services are provided.
2. The Contractor shall utilize the invoice template(s) provided by BHA. Contractor shall comply with the invoicing instructions contained within the invoice template, and requests for supporting documentation.
3. All payment requests shall be submitted electronically to CDHS_BHApayment@state.co.us.
4. Year-end invoice estimates are due by June 15th. Final invoice requests in excess of the submitted estimates are payable contingent on available funds.
5. Final invoices are due no later than August 30th.
6. If the Contractor is a recipient of Federal Funds, final invoices are due no later than forty-five days after the end date of the grant.
7. Invoices for the prior fiscal year received by August 30th which require revisions must be final by September 10th or they may not be paid.
8. Any requests for payment received after September 10th for the prior state fiscal year or after December 10th for the prior federal fiscal year cannot be processed by BHA.
9. The State will make payment on invoices within forty-five days of receipt of a correct and complete invoice to CDHS_BHApayment@state.co.us. Consequently, the Contractor must have adequate solvency to pay its expenses up to forty-five days after invoice submission to the State.

Exhibit D - HIPAA Business Associate Agreement

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

1. Purpose

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information (“PHI”). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

2. Definitions

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- A. **Business Associate.** “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.
- B. **Covered Entity.** “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.

- C. **Information Technology and Information Security.** “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

3. **Obligations and Activities of Business Associate**

A. **Permitted Uses and Disclosures.**

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate’s obligations under the Contract.
- ii. To the extent Business Associate carries out one or more of Covered Entity’s obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
- iii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
 - a. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
 - b. the person notifies Business Associate of any Breach involving PHI of which it is aware.
- iv. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

- B. **Minimum Necessary.** Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to

accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

C. Impermissible Uses and Disclosures.

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

D. Business Associate's Subcontractors.

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.
- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
- iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.

E. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <http://oit.state.co.us/about/policies>.

F. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to

Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.

G. Amendment of PHI.

- i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
- ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.

H. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.

I. Restrictions and Confidential Communications.

- i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
 - a. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
 - b. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
- ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
- iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.

J. Governmental Access to Records. Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.

K. Audit, Inspection and Enforcement.

- i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
- ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

L. Appropriate Safeguards.

- i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
- ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
- iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
- iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

M. Safeguard During Transmission.

- i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
- ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

N. Reporting of Improper Use or Disclosure and Notification of Breach.

- i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.
- ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
- iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
- iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.

O. Business Associate's Insurance and Notification Costs.

- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
 - a. loss of PHI data;
 - b. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
 - c. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.

- ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).
- iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
- iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.

P. Subcontractors and Breaches.

- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.
- ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.

Q. Data Ownership.

- i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
- ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.

R. Retention of PHI. Except upon termination of this Agreement as provided in Section 5, below, Business Associate and its Subcontractors or agents shall

retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h, above, for a period of six years.

4. Obligations of Covered Entity

- A. **Safeguards During Transmission.** Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
- A. **Notice of Changes.**
 - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
 - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

5. Termination

- A. **Breach.**
 - i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
 - ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.
- B. **Effect of Termination.**

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. Injunctive Relief

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

7. Limitation of Liability

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

8. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

9. Certification

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

10. Amendment

- A. **Amendment to Comply with Law.** The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
- i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
 - ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
 - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
 - iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:

- a. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
 - b. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- B. **Amendment of Appendix.** The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

11. Assistance in Litigation or Administrative Proceedings

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

12. Interpretation and Order of Precedence

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

13. Survival

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.



Appendix to HIPAA Business Associate Agreement

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract. Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

1. Purpose

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

2. Additional Terms

- A. **Additional Permitted Uses.** In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
 - i. Reserved.
- B. **Additional Permitted Disclosures.** In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
 - i. Reserved.
- C. **Approved Subcontractors.** Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
 - i. Reserved.
- D. **Definition of Receipt of PHI.** Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
 - i. Reserved.
- E. **Additional Restrictions on Business Associate.** Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
 - i. Reserved.
- F. **Additional Terms.** Business Associate agrees to comply with the following additional terms under the Agreement:
 - i. Reserved.