

Request for Proposals



**City of Minneapolis
Health Department**

School Based Clinic Program
Revenue Cycle Management Billing and Consultation Services

RFP 2024-30 / Event #0000003141 Issue Date: June 6, 2024

Proposals Due by: July 1, 2024, at 2:00 p.m. (Minneapolis time)

To Prospective Applicants:

June 4, 2024

The Minneapolis Health Department is issuing a Request for Proposals (RFP) for revenue cycle management billing and consultation services for the School Based Clinic (SBC) program. The purpose of this RFP is to select an agency to provide billing services to maximize client revenue collection from insurers. These clinical services are for the SBC sites located in eight Minneapolis Public High Schools and one alternative school. Applicants must be able to provide the following services:

- Conduct background billing functions including online insurance verification, ensure accurate coding, accept and submit clean claims to clearinghouse, process remittances, post payments, balance billings, and monitor and track account receivables via SBC electronic health record system (Next Gen).
- Work with clearinghouse for SBC claim management within Next Gen Electronic Health Record System.
- Bill all public and commercial insurance and grant supported services while maintaining confidentiality.
- Create and generate financial reports from the SBC Next Gen system.
- Provide technical assistance with compliance, fee analysis and ongoing communication and training to SBC staff regarding insurance and coding updates and required documentation.

This RFP is for an approximately three-year period beginning October 1, 2024, and renewable annually for up to two additional years contingent upon funding, program needs and performance.

Please review the attached RFP for more detailed information about the requirements and desired qualifications. A pre-proposal conference for interested applicants will be held via Teams on Monday, June 10, 2024, 1p.m. [To join, use the Teams link](#). Or dial by phone 612-276-6670 and use ID 284 368 032#.

While attendance at the pre-proposal meeting is not mandatory, it is strongly encouraged as this will be the only opportunity to ask questions directly to staff. If you are unable to attend the pre-proposal meeting or have additional questions after the meeting, questions may be submitted in writing by no later than Monday, June 17, 2024, at 4 p.m. CDT. Answers will be posted in a Q&A document on the eSupplier portal no later than end of day on Monday, June 24, 2024 (along with the Q&A from the pre-proposal meeting itself). There will be no information provided outside of this process.

Completed proposals are due no later than 2 p.m. CDT Monday July 1, 2024.

Thank you for your consideration.

Sincerely,



Damon Chaplin, Commissioner of Health, City of Minneapolis Health Department

If you need this material in an alternative format please call the Health Department at 612-673-2301 or email health@minneapolismn.gov. Deaf and hard-of-hearing persons may use a relay service to call 311 agents at 612-673-3000. TTY users may call 612-673-2157 or 612-673-2626.

For reasonable accommodations or alternative formats please contact the Minneapolis Health Department at 612-673-2301 or health@minneapolismn.gov. People who are deaf or hard of hearing can use a relay service to call 311 at 612-673-3000. TTY users call 612-673-6850 or 612-673-2626. Para ayuda llame al 311. Rau kev pab hu 311. Hadii aad caawimaad u baahantahay wac 311.

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*This document is informational, and only needs to be filled out and turned in if you are awarded a contract.

**Requests for Proposal
For
School Based Clinics
Revenue Cycle Management Billing and Consultation Services**

I. Invitation

The Minneapolis Health Department (MHD) is requesting proposals from Contractors (hereinafter referred to as “Contractor”) to provide economical and timely billing services to the School Based Clinics (SBC) program that provides receiving adolescent health services in clinics located in eight Minneapolis high schools and one alternative school site.

The SBC Program offers a range of adolescent medical and mental health services. The SBC team includes a medical director, physician assistants, nurse practitioners, health educators, registered dietitian and mental health counselors who provide comprehensive adolescent health services that are convenient and barrier-free. The program has clinic locations at: Edison and Henry High Schools in North Minneapolis; Longfellow, Roosevelt, South, Southwest and Washburn High Schools in South Minneapolis, and FAIR and Wellstone high schools downtown. Each site sees an average of 200-400 high school students per year. During the 2022-23 school year, SBC provided services to 2,650 students, of which 70% were female and the remaining 30% male. This amounted to nearly 11,500 visits. General services provided by the clinics include health assessments, physical exams, sport physicals, wellness promotion, immunizations, diagnosis and treatment of minor injury and illness, reproductive health services, sexually transmitted infection testing and treatment, nutrition and mental health counseling, and laboratory services/screening. Clinics operate five days per week when school is in operation except for the Longfellow clinic which operates two days per week. The summer clinic schedule is typically three days per week at various SBC locations.

The Minneapolis Health Department is looking for a contractor to provide billing service via our electronic medical record Next Gen system as well as clearinghouse services. Contractor should also provide technical assistance with coding, billing, and insurance requirements. The Contractor will be expected to provide monthly, quarterly, and annual charge and revenue reports. The Contractor will also provide MHD with monthly invoices for services provided.

MHD provides confidential reproductive health services to adolescents under the Minnesota Minor Consent law and confidential mental health services for some 16 years and older clients. In some confidentially bill for clinical services on clients with public and commercial insurance, no insurance or grant funding. Most client lab tests must be billed to insurance or our contracted lab directly. The Contractor will coordinate with SBC’s billing service which will provide necessary client information via a HIPAA secure database that will be created and maintained by the Contractor and accessed by the lab.

MHD intends to contract with one Contractor for a three-year period beginning October 2024, with potential of two subsequent years contingent upon funding, program needs and performance. To be eligible, a Contractor must have:

- Experience providing billing services to nontraditional small clinic requiring

individualized review.





- Ability to utilize billing components of the Next Gen Electronic Health Record system.
- Provide a HIPAA secure database of client billing data to contracted lab.
- Maintain the confidentiality of client medical personal health information in accordance with HIPAA regulations and state data privacy laws.
- Meet the City of Minneapolis RFP terms and conditions, which are outlined in Attachment D.

II. Proposal Submittal

All proposals must now be submitted electronically through the eSupplier Portal. If you are already a City Supplier you should have received an email containing your eSupplier User ID and Password. If you do not remember your password, click on the “Forgot Password” tile to enter your User ID and a new password will be emailed to you. If you are not already a city supplier, click on the eSupplier link below and then click on the “Bidder/Payee Registration” tile to register. If you need further assistance with eSupplier, please send an email to eprocurement@minneapolismn.gov.

eSupplier Portal – Electronic Proposal Submission
<https://comet-fs.ci.minneapolis.mn.us/psc/supplier>

Note: Late proposals will not be accepted.

| | |
|---|---|
| <p>1. To access the eSupplier Portal, visit https://www.minneapolismn.gov/business-services/doing-business-with-the-city/get-started/ and click or tap on the “Go to eSupplier” link:</p> |  |
| <p>2. If you are not already a City Supplier, you will need to first register as a bidder. You can do this by following the “Go to eSupplier” link described above and then clicking on the “Bidder Registration” tile to register:</p> |  |
| <p>3. Click Register Now</p> |  |
| <p>4. If you are already a City Supplier, you should have received an email containing your eSupplier User ID and Password. If you do not remember your password, click on the “Forgot Password” tile to enter your User ID and a new password will be emailed to you.</p> |  |

5. If you need help with registering to use the eSupplier portal, you can find written instructions in the eSupplier Bidder and Payee Registration Guide at <https://www.minneapolismn.gov/business-services/doing-business-with-the-city/esupplier-instructions/>



If you need further assistance with eSupplier;

- Email (subject line: eSupplier help) - eProcurement@minneapolismn.gov
- Phone: 612-673-2311

III. Proposal Format

The Contractor shall provide the appropriate information in sufficient detail to demonstrate that the evaluation criteria has been satisfied as specified in Section IV - Evaluation of Proposals.

1. Proposal Coversheet (Attachment C) - Include documents outlined on the coversheet.
2. Proposal Narrative - To allow for easier comparison of proposals during evaluation, proposals should contain the following sections and appendices and be arranged in consecutive order.

Respond to each item in the order presented below. Please limit responses to a total maximum of ten (10) pages single-spaced with a 12-pt. font.

Proposal Narrative Questions

Describe your agency's background and experience providing third party medical and mental health billing, collections, and business management services to community-based clinics by answering the questions below:

Expertise/Experience

1. Describe capacity, years of experience in revenue management billing cycle (RMC), including accounts receivable and business management services. If these services have been provided beyond a single agency, please provide references. (References will not be counted toward the page limit)
2. Describe experience in working with community-based clinics, public health clinics, school-based clinics, adolescent health programs and or mental health clinics. How many clients do you currently have that provide adolescent medical and mental health care services?
3. Describe experience using an electronic health record system "EHR" (EPM/EHR) for third party billing.
4. Do you have experience with the NextGen electronic health record software? Please describe experience.
5. Describe experience configuring or updating an EHR system, updating coding, updating insurance/payers, processing claims, posting payments, balancing claims/payments and creating/generating reports in an electronic health record system.
6. Please describe any experience with billing for mental health services including DSM-V coding.
7. Describe experience working with Medicaid (including MN Family Planning Program), sliding fee, no-pay populations or grant covered services.

Reporting/Billing

8. Describe skill and experience with MS word and Excel including use of pivot tables in preparing financial reports. Please submit an example of a report you developed. (Report example not counted toward page limit). What is your experience in automating billing workflow processes with EHR systems? Describe how SBC providers will release encounters within Next Gen once completed for billing.
9. Describe what clearinghouse services would be included in your RMC services.
10. What types of reports would you recommend having in place as benchmark measures for clinic performance?

Individualized Support

11. SBC primarily provides services to adolescents between 13-19 years of age. The MN Minor Consent Law obligates us to provide certain medical and behavioral services to adolescents without parental consent. What safeguards would you put in place to protect client confidentiality?
12. Describe the training that you or your agency could provide for SBC staff. Including training on new CPT or other billing requirement changes.
13. What computer capability/technology do you have in place to access the SBC's hosted electronic system (NextGen) and internet eligibility sites?
14. How many staff would your organization assign to the SBC and what would their specific roles and responsibilities include? Provide information regarding the educational background and specific experience in the service areas needed for personnel that would be assigned to this project. Resumes or other supporting documents may be submitted as an attachment to the proposal (not included in ten-page limit).
15. Do you have any Certified Professional Coders (CPCs) on your staff?
16. Describe you or your agency's training plan to keep staff up to date on billing, coding, and reimbursement regulations. Include training on coding or insurance changes.

Billing Processes

17. Please attach your most recent audit with management letter or 3 years of financial statements. If you do not attach these documents, please provide a statement as to why they are not available or not being submitted. (Attachments not counted toward page limit)
18. What health plans do you have experience billing electronically?
19. Are there any exceptions to billing electronically?
20. Do you handle all billing-related and ancillary documentation to health plans? If no, what is not handled?
21. Are there any billing processes that your organization does not furnish?
22. From the date you receive data, how much time do you require to process a claim? (e.g., date of service versus date of post)
23. How are annual computer system updates handled for CPT, HCPCS and ICD codes?

Costs/Value

24. Indicate proposed hourly rate and annual cost projection based on 12,000 annual Client encounters. MHD provides Next Gen/Dell server license and online insurance verification (Healthia) system.
25. All expenses for provision of services (office supplies, computer hardware, internet access, insurance, clearinghouse expenses and other program expenses) must be included in the hourly rate/budget.
26. Provide both proposed hourly rate for data collection/reporting based on projected encounters, and hourly rate for consultation/training services. The costs of services should be included in the 10-page maximum.

Other

27. Nonprofit agencies responding to the RFP must submit a copy of their IRS determination letter with their application. Further administrative and financial documents may be requested of any selected contractor prior to executing a contract.
28. Has your organization ever been investigated in a fraud or abuse case? If yes, when and what was the outcome?
29. Does your agency have HIPAA privacy and security policies in place? If so, please attach copies of these policies and/or an outline of your plan and what your agency has put in place to assure compliance. (Attachments not counted toward page limit)
30. What is the security system on your computers and who has access?
31. What is your hiring and background check policy?

IV. Evaluation of Proposals/Selection of Contractor

Proposals will be reviewed by representatives from the Minneapolis Health Department. The review committee will use the following criteria to evaluate proposals:

- Revenue Cycle management experience and expertise working with clinics in similar circumstances.
- Ability to conduct background billing functions including online insurance verification, ensure accurate coding, accept, and submit clean claims to clearing house, process remittances, post payments, balance billings, monitor and tract account receivables via SBC electronic health record system (Next Gen).
- Adequacy of customer service; identified contact person, responsive and easily accessible staff who are willing to assist with technical questions, issues with billing.
- Expertise and ability to provide confidential billing in accordance with HIPAA regulations and privacy laws.
- Ability to provide updates and training on billing practices to SBC managers and staff.
- Cost and value of services provided.
- Requested document compliance.

- Compatibility or “best fit” with the requirements of the School Based Clinic program.

V. Schedule

| | |
|---|-------------------------|
| RFP Release | June 6, 2024 |
| Pre-Proposal Teams virtual meeting | 1 p.m. on June 10, 2024 |
| Questions on RFP due | 4 p.m. on June 17, 2024 |
| Responses to Questions posted | 4 p.m. on June 24, 2024 |
| Proposals due | 2 p.m. on July 1, 2024 |
| Estimated Contractor selection and Council approval | September 1, 2024 |
| Estimated services start date | October 1, 2024 |

VI. Contract

Please carefully review the attached Terms and Conditions for a City contract (Attachment D), particularly the insurance requirements. All Contractors receiving a contract must provide documentation of insurance coverage for Workers Compensation (including coverage for subcontractors), General Liability, Commercial Auto Liability, Professional Liability, and Technology Liability as applicable to their work. Failure to maintain required insurance coverage may result in contract termination.

The contracting parties will be the City of Minneapolis, through its Health Department, and the Contractor selected to provide the services as described herein. The selected proposal, along with the RFP and any counter proposal will be incorporated into a formal agreement after negotiations.

The Minneapolis Health Department will contract with one contractor for a three-year time period beginning October 1, 2024, with the potential of two subsequent years contingent upon funding, program needs and performance.

VII. Pre-Proposal Virtual Meeting

A pre-proposal Teams conference call will be held at 1p.m., June 10, 2024. [To join, use the Teams link.](#) Or dial by phone 612-276-6670 and use ID 284 368 032#.

The Health Department will describe this funding opportunity, review the RFP and answer questions. Participation in this meeting is not required, however, it is strongly encouraged as it is the only opportunity to ask questions directly to Health Department staff.

VIII. Department Contact/Requests for Clarification

The Contractor’s primary interface with the Health Department will be with the Contract Manager who will act as the City’s designated representative for the Project. Prospective responders shall direct inquiries/questions **in writing only** to:

Health Department: Health@minneapolismn.gov
 Subject line: SBC RMC RFP

Responses to the questions will be posted to the current event in the eSupplier Portal – Contracting Opportunities.

IX. Rejection of Proposals

The City does not promise to accept the lowest cost proposal and specifically reserves the right to reject any or all proposals, to waive any formal proposal requirements, to investigate the qualifications and experience of any Contractor, to reject any provisions in any proposal, to obtain new proposals, to negotiate the requested services and contract terms with any Contractor, or to proceed to do the work otherwise. Incomplete proposals and proposals not sufficiently detailed or not in acceptable form may be returned for completion or may be rejected by the City.

X. Addendum to the RFP

If any addendum is issued for the RFP, it will be posted as an attachment to the current event. The City reserves the right to cancel or amend the RFP at any time.

XI. Data Practices

Data you provide in response to this RFP will be subject to the Minnesota Government Data Practices Act and may be available to the public. Minn. Stat. 13.591 classifies Business Data and subdivision 3 specifically addresses data submitted in response to an RFP. If you are submitting specific data which you believe meets the definition of trade secret data as defined in Minn. Stat. 13.37, please indicate this on the documents containing the data. The City may ask you to establish that the data meets all of the conditions set forth in Minn. Stat. 13.37, subdivision 1(b).

Attachment A Scope of Services

It is the intent of this document to outline a general description of the requested RMC services, the extent of services required and the agencies or other parties that will interact with the Contractor. The contents of this document are considered representative of the request but are by no means conclusive.

Background

The School Based Clinics (SBC) of the Minneapolis Health Department (MHD) offer medical and mental health services that are distinct from, but complementary to those traditionally offered by school nurse offices. General services include health assessments, physical exams, sport physicals, wellness promotion, immunizations, nutrition services, diagnosis and treatment of minor injury and illness, reproductive health services, sexually transmitted infection testing and treatment, mental health diagnostic assessments, mental health therapy and laboratory services/screening.

The SBC team includes Physicians, Nurse Practitioners, Physician Assistants, Registered Dietitians, Health Educators and Mental Health Counselors who provide medical services that are convenient and barrier free. SBC has 2.0 FTE Managers, 2.0 FTE Administrative staff, 7.0 FTE Nurse Practitioners/Physician Assistants, 0.10 FTE Physician Medical Director, 8.0 Health Educators, 1.0 Registered Dietitian, and 9.0 FTE Mental Health Professionals that provide medical and mental health services at the various sites. In 2022-23 school year, the SBC provided services to 2,650 students, generating nearly 12,500 visits. Total charges in 2023 were \$3,211,408 and actual revenue collected was \$939,106. Sixteen percent of clients were on commercial insurances (primary insurances - Medica, Health Partners, U Care, Hennepin Health, United Health and BCBS), approximately 53% of clients had public insurance, 16% had no insurance and 15% received grant-funded services.

Scope of Work

MHD is seeking a Contractor with knowledge of the entire medical/mental health revenue management cycle to assist the SBC to improve its billing processes and maximize client revenue collection. The Contractor will have the ability to advise and educate on front-end SBC processes as well as develop and implement the most efficient practices in the back-end billing cycle. Back-end billing functions requested include online insurance verification, ensuring coding verification, accepting, and submitting accurate clean claims to clearinghouse, processing remittances, posting payments, balancing billings, monitoring, and tracking account receivables and creating and generating financial reports from the SBC Next Gen System. The contractor will provide technical assistance with compliance, fee analysis, and ongoing training of SBC staff regarding insurance updates, coding, and documentation.

A summary of the scope of services expected is listed below:

Billing Cycle Processes (using the SBC Next Gen Electronic Health Records EHR System)

- Update demographic and insurance information in NextGen record.
- Verify insurance coverage through online sites: Healthia, MN-ITS and/or health plan for each encounter.
- Prepare, review and process charges from Next Gen clinic encounter generated super bills for completeness and verify for correct ICD, CPT and HCPCS coding.
- Provide timely feedback to SBC staff regarding errors or omissions in completion of super

bill/visit charges.

- Submit claims efficiently to SBC's contracted clearinghouse.
- Invoice commercial mental health claims to clients via Rectangle Health platform.
- Monitor and correct claim errors.
- Process all remittances and post payments in SBC Next Gen.
- Monitor outstanding submissions.
- Run necessary reports to make sure charges and claims balance.
- Manage claim denials.
- Ensure that all month-end reports and system balances are completed.
- Resolve pending and denied claims per remittance advice promptly to ensure processing within timely filing limits.
- Provide confidential billing data to SBC contracted lab or billing in a HIPAA secure database.
- Provide routine month-end financial reports to MHD.

Monitoring SBC Revenue Cycle

- Contractor must have computer/internet capability or be willing to purchase equipment to access the SBC Next Gen EHR system for completing SBC billing.
- Contractor will participate in ongoing Next Gen billing-related trainings related to system changes and upgrades.
- Contractor will follow agreed upon schedule for claims submissions, posting, and balancing.
- Contractor will maintain an accounting of all unbilled, discounted, and no pay charges.
- Contractor will work with MHD on developing financial reports that benchmark key steps in the billing cycle and have the capability to update or modify as reporting requirements changes.

Consultation and Training

- Contractor should be knowledgeable regarding insurance billing regulations and requirements, HIPAA rules related to billing practice and Minor Consent Law.
- Contractor will keep SBC up to date on changes in Medicaid, PMAP, MN Family Planning Program or other health plan billing requirements or regulations that govern the billing process.
- Contractor should be available to provide one-on-one consultation as needed via phone regarding billing or coding questions.
- Contractor will assist in the development and updating of written billing protocols and procedures.
- Contractor will provide training to SBC staff as needed on CPT, HCPCS, ICD coding and documentation, specifically in the areas of evaluation and management, child and teen checkup, preventive services, mental health, and reproductive health.
- Contractor will assist SBC in preparing and processing nonbillable and grant-funded activities.
- Contractor will provide technical assistance to SBC in updating its super bill/encounter forms.
- Contractor will provide feedback regarding Fee Schedule and need for any rate adjustments based on reimbursement patterns or third-party payer surveys.
- Contractor will work with SBC to ensure that provider information is up to date with all payers (credentialing) to prevent ongoing rejections and ensure billing efficiency.

Auditing, Regulations and Billing

- Contractor will provide expertise to SBC leadership in conducting internal audits to reconcile the documentation in the EHR system to what is captured in super bill (charges) as well as with other quality assurance activities.
- The Contractor should have specific knowledge and experience working with public health or community health programs which primarily serve low-income populations enrolled in Medical Assistance, including the MN Family Planning Program and Prepaid Medical Assistance Providers. Contractor should be familiar with State and Federal regulations regarding billing, privacy, security and confidentiality, specifically the Minnesota Minor Consent Law.
- The Contractor will be expected to have a computer and stable/high speed internet to access the SBC EHR system, insurance eligibility/verification sites, and clearinghouse. Next Gen billing and reporting expertise is preferred. The Contractor should have experience in configuring and updating coding and payers/insurers in an electronic health record system.
- The selected Contractor must sign a Business Associate Agreement with the City of Minneapolis to perform the services requested in the scope of work. A sample agreement is included in the RFP (Attachment E) for review prior to application.

Attachment B
School Based Clinic Program Locations

Edison High School

700 22nd Ave. NE, Room 107, Minneapolis 55418

Phone: 612-668-1321

Fax: 612-668-1391

FAIR High School

10 South 10th St., Room 324, Minneapolis 55403

Phone: 612-668-1064

Fax: 612-668-1090

Henry High School

4320 Newton Ave. N., Room 212, Minneapolis 55412

Phone: 612-668-1944

Fax: 612-668-2011

Longfellow (Broadway) Pregnant and Parenting High School

3017 East 31st St, Room 126, Minneapolis 55410

Phone: 612-668-4723

Roosevelt High School

4029 28th Ave. S., Room 143, Minneapolis 55406

Phone: 612-668-4834

Fax: 612-668-4874

South High School

3131 19th Ave S., Room 122, Minneapolis 55407

Phone: 612-668-4333

Fax: 612-668-4405

Southwest High School

3414 West 47th St., Room E21, Minneapolis 55410

Phone: 612-668- 3040

Fax: 612-668-3078

Washburn High School

201 West 49th St., Room 006, Minneapolis 55409

Phone: 612-668-3453

Fax: 612-668-3527

Wellstone High School (Fall 2024) At MCTC

1501 Hennepin Ave., 3rd Floor Koop Hall, Minneapolis 55411

Phone: 612-668-1064

Fax: 612-668-1090

**Attachment C
Proposal Cover Sheet**

Applicant Name:

Address:

Telephone Number:

Fax Number:

Email address:

Person authorized to sign contracts (contractor):

Contact Person Name and Title (if different from above):

Telephone Number:

E-mail address of contact person:

Unique Entity ID (UEI) (formerly DUNS) #:

Proposal Checklist

Documents:

- _____ Proposal Cover Sheet
- _____ Project Narrative Questions (10 pages maximum)

Attachments:

- _____ Summary of HIPAA privacy and security policies
- _____ Resumes or other supporting documents (if applicable)
- _____ Report example (if applicable)
- _____ References (if applicable)
- _____ IRS determination letter (nonprofit agencies)
- _____ Most recent audit and management letter, or financial statements for the past three years, or provide an explanation as to why the documents cannot be provided

Attachment D

City of Minneapolis Terms and Conditions for Professional Services Contracts Over \$175,000

(Revised: Jan 15, 2019)

The General Conditions are terms and conditions that the City expects its Consultants to meet. The Consultant agrees to be bound by these requirements unless otherwise noted in the Proposal. The Consultant may suggest alternative language to any three (3) sections. Some negotiation is possible to accommodate the Consultant's suggestions.

1. City's Rights

The City reserves the right to cancel the Contract without penalty, if circumstances arise which prevent the City from commencing the project or any phase of the project and at any time if it is determined that the City was fraudulently induced to enter into the contract.

2. Equal Opportunity Statement

The Consultant agrees to comply with applicable provisions of applicable federal, state and city regulations, statutes and ordinances pertaining to the civil rights and non-discrimination in the application for and employment of applicants, employees, subcontractors and suppliers of the Consultant. Among the federal, state and city statutes and ordinances to which the Consultant shall be subject under the terms of this Contract include, without limitation, Minnesota Statutes, section 181.59 and Chapter 363A, Minneapolis Code of Ordinances Chapter 139, 42 U.S.C Section 2000e, et. seq. (Title VII of the Civil Rights Act of 1964), 29 U.S.C Sections 621-624 (the Age Discrimination in Employment Act), 42 U.S.C Sections 12101-12213 (the Americans with Disability Act or ADA), 29 U.S.C Section 206(d) (the Equal Pay Act), 8 U.S.C Section 1324 (the Immigration Reform and Control Act of 1986) and all regulations and policies promulgated to enforce these laws. The Consultant shall have submitted and had an "affirmative action plan" approved by the City prior to entering into a Contract.

3. Insurance

Insurance secured by the Consultant shall be issued by insurance companies acceptable to the City and admitted in Minnesota. The insurance specified may be in a policy or policies of insurance, primary or excess. Such insurance shall be in force on the date of execution of the Contract and shall remain continuously in force for the duration of the Contract.

Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Consultant. Any policy deductibles or retention shall be the responsibility of the Consultant. The City does not represent that the insurance requirements are sufficient to protect the Consultant's interest or provide adequate coverage. Evidence of coverage is to be provided on a current ACORD Form, Insurance Declaration. A thirty (30) day written notice is required if the policy is canceled, not renewed or materially changed. The Consultant shall require any of its sub-contractors, if sub-contracting is allowable under this Contract, to comply with these provisions.

The Consultant and its subcontractors shall secure and maintain the following insurance:

- a) **Workers Compensation** insurance that meets the statutory obligations with Coverage B-Employers Liability limits of at least \$100,000 each accident, \$500,000 disease - policy limit and \$100,000 disease each employee.
- b) **Commercial General Liability** insurance with limits of at least \$2,000,000 general aggregate, \$2,000,000 products - completed operations \$2,000,000 personal and advertising injury, \$300,000 each occurrence fire damage and \$5,000 medical expense any one person. The policy shall be on an "occurrence" basis, shall include contractual liability coverage and the City shall be named an additional insured. The amount of coverage will be automatically increased if the project amount is expected to exceed \$2,000,000 or involves potentially high risk activity.
- c) **Commercial Automobile Liability** insurance covering all owned, non-owned and hired automobiles with limits of at least \$1,000,000 per accident.
- d) **Professional Liability** Insurance or Errors & Omissions Insurance providing coverage for 1) the claims that arise from the errors or omissions of the Consultant or its subcontractors and 2) the negligence or failure to render a professional service by the Consultant or its subcontractors. The insurance policy should provide coverage in the amount of \$2,000,000 each claim and \$2,000,000 annual aggregate. The insurance policy must provide the protection stated for two years after the expiration of the contract.
- e) **Network Security and Privacy Liability** for the duration of this agreement providing coverage for, but not limited to, Technology and Internet Errors & Omissions, Security and Privacy Liability, and Media Liability. Insurance will provide coverage against claims that arise from the disclosure of private information from files including but not limited to: 1) Intentional, fraudulent or criminal acts of the Consultant, its agents or employees. 2) Breach of the City's private data, whether electronic or otherwise. The insurance policy should provide minimum coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If written on a Claims-Made basis, the policy must provide an extended reporting period and have a retroactive date that on or before the date of this Contract or the date Consultant commences work, whichever is earlier.

4. **Indemnity and Hold Harmless**

The Consultant will defend, indemnify and hold harmless the City and its officers and employees from all liabilities, claims, damages, costs, judgments, lawsuits and expenses, including court costs and reasonable attorney's fees regardless of the Consultant's insurance coverage, arising directly from any negligent act or omission of the Consultant, its employees, agents, by any sub-contractor or sub-consultant, and by any employees of the sub-contractors and sub-consultants of the Consultant, in the performance of work and delivery of services provided by or through this Contract or by reason of the failure of the Consultant to perform, in any respect, any of its obligations under this Contract.

The City will defend, indemnify and hold harmless the Consultant and its employees from all liabilities, claims, damages, costs, judgments, lawsuits and expenses including court costs and reasonable attorney's fees arising directly from the negligent acts and omissions of the City by reason of the failure of the City to perform its obligations under this Contract. The provisions of the Minnesota Statutes, Chapter 466 shall apply to any tort claims brought against the City, as a

result of this Contract.

Except for violations of the Data Practices section below, neither party will be responsible for or be required to defend any consequential, indirect or punitive damage claims brought against the other party.

Where the Services provided by the Consultant to the City are “design professional services” as described in Minnesota Statutes, Section 604.21, then, the Consultant will not be obligated to defend the City as required above.

5. Subcontracting

The Consultant shall not sub-consult or sub-contract any services under this Contract unless authorized in writing by the City. The Consultant shall provide written notice to the City and obtain the City’s authorization to sub-contract any work or services to be provided to the City pursuant to this Contract. As required by Minnesota Statutes, Section 471.425, the Consultant shall pay all subcontractors for subcontractor’s undisputed, completed work, within ten (10) days after the Consultant has received payment from the City.

6. Assignment or Transfer of Interest

The Consultant shall not assign any interest in the Contract, and shall not transfer any interest in the same either by assignment or novation without the prior written approval of the City which will not be withheld or delayed unreasonably.

7. General Compliance

The Consultant agrees to comply with all applicable Federal, State and local laws and regulations governing funds provided under the Contract.

8. Performance Monitoring

The City will monitor the performance of the Consultant against goals and performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with this Contract. If action to correct such substandard performance is not taken by the Consultant within a reasonable period of time to cure such substandard performance after being notified by the City, Contract termination procedures will be initiated. All work submitted by Consultant shall be subject to the approval and acceptance by the City Department Contract Manager designated herein. The City Department Contract Manager designated herein shall review each portion of the work when certified as complete and submitted by the Consultant and shall inform the Consultant of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

9. Prior Uncured Defaults

Pursuant to Section 18.115 of the City’s Code of Ordinances, the City may not contract with persons or entities that have defaulted under a previous contract or agreement with the City and have failed to cure the default. _

10. Independent Consultant

Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Consultant shall at all times remain an independent Consultant with respect to the work and/or services to be performed under this Contract. Any and all employees of Consultant or other persons engaged in the performance of any work or services required by Consultant under this Contract shall be considered employees or subcontractors of the Consultant only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services to be rendered or provided herein, shall be the sole obligation and responsibility of the Consultant.

11. Accounting Standards

The Consultant agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices (GAAP) to properly account for expenses incurred under this Contract.

12. Retention of Records

Pursuant to Minnesota Statutes, Section 138.17 and Section 15.17, the Consultant shall retain all records pertinent to expenditures incurred under this Contract in a legible form for a period of six years commencing after the later of contract close-out or resolution of all audit findings. Records for non-expendable property acquired with funds under this Contract shall be retained for six years after final disposition of such property.

13. Audit Requirements for Cloud-Based Storage of City Data

If the Consultant's services include the storage of City data using a cloud based solution, then the Consultant agrees to secure the data as though it were "private data" as defined in Minnesota Statutes, Chapter 13. The Consultant shall provide the City with the annual copy of the Federal Standards for the Statement on Standards for Attestation Engagements (SSAE) No. 16 or the International Standard on Assurance Engagements (ISAE) No. 3402. The Consultant agrees to provide a .pdf copy to the City's Contract Manager, upon the Consultant's receipt of the audit results.

14. Data Practices

The Consultant agrees to comply with the Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13) and all other applicable state and federal laws relating to data privacy or confidentiality. The requirements of Minnesota Statutes, Section 13.05, subdivision 11 apply to companies or individuals who perform under a government contract. The Consultant and any of the Consultant's sub-consultants or sub-contractors retained to provide services under this Contract shall comply with the Act and be subject to penalties for non-compliance as though they were a "governmental entity." The Consultant must immediately report to the City any requests from third parties for information relating to this Contract. The City agrees to promptly respond to inquiries from the Consultant concerning data requests. The Consultant agrees to hold the City, its officers, and employees harmless from any claims resulting from the Consultant's unlawful disclosure or use of data protected under state and federal laws.

15. Inspection of Records

Pursuant to Minnesota Statutes, Section 16C.05, all books, records, documents and accounting procedures and practices of the Consultant with respect to the matters covered by this Contract shall be made available to the City and the State of Minnesota, Office of the State Auditor, or their designees upon notice, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

16. Living Wage Ordinance

The Consultant may be required to comply with the “[Minneapolis Living Wage and Responsible Public Spending Ordinance](#)” Chapter 38 of the City’s Code of Ordinances (the “Ordinance”). Unless otherwise exempt from the ordinance as provided in Section 38.40 (c), any City contract for services valued at \$100,000 or more or any City financial assistance or subsidy valued at \$100,000 or more will be subject to the Ordinance’s requirement that the Consultant and its subcontractors pay their employees a “living wage” as defined and provided for in the Ordinance.

17. Applicable Law

The laws of the State of Minnesota shall govern all interpretations of this Contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Consultant.

18. Conflict and Priority

If the Contract was awarded by RFP and in the event that a conflict is found between provisions in this Contract, the Consultant's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence: 1) Contract; 2) Proposal; and last 3) Request for Proposals.

19. Travel

If travel by the Consultant is allowable and approved for this Contract, then Consultant travel expenses shall be reimbursed in accordance with the City’s [Consultant Travel Reimbursement Conditions](#)

20. Conflict of Interest/Code of Ethics

Pursuant to Section 15.250 of the City’s Code of Ordinances, both the City and the Consultant are required to comply with the City’s Code of Ethics. Chapter 15 of the Code of Ordinances requires City officials and the Consultant to avoid any situation that may give rise to a “conflict of interest.” A “conflict of interest” will arise if Consultant represents any other party or other client whose interests are adverse to the interests of the City.

As it applies to the Consultant, the City’s Code of Ethics will also apply to the Consultant in its role as an “interested person” since Consultant has a direct financial interest in this Agreement. The City’s Code of Ethics prevents “interested persons” from giving certain gifts to employees and elected officials.

21. Termination, Default and Remedies

The City may cancel this Contract for any reason without cause upon thirty (30) days' written notice. Both the City and the Consultant may terminate this Contract upon sixty (60) days' written notice if either party fails to fulfill its obligations under the Contract in a proper and timely manner, or otherwise violates the terms of this Contract. The non-defaulting party shall have the right to terminate this Contract, if the default has not been cured after ten (10) days' written notice or such other reasonable time period to cure the default has been provided. If termination shall be without cause, the City shall pay Consultant all compensation earned to the date of termination. If the termination shall be for breach of this Contract by Consultant, the City shall pay Consultant all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the Contract is canceled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Consultant under this Contract shall, at the option of the City, become the property of the City, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Contract by the Consultant. The City may, in such event, withhold payments due to the Consultant for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Consultant, from asserting any other right or remedy allowed by law, equity, or by statute. The Consultant has not waived any rights or defenses in seeking any amounts withheld by the City or any damages due the Consultant.

22. Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall become the property of the City upon the City's payment for and final approval of the final report or upon payment and request by the City at any time before then. The City at its own risk, may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Consultant.

23. Intellectual Property

All Work produced by the Consultant under this Contract is classified as "work for hire" and upon payment by the City to the Consultant will be the exclusive property of the City and will be surrendered to the City immediately upon completion, expiration, or cancellation of this Contract. "Work" covered includes all reports, notes, studies, photographs, designs, drawings, specifications, materials, tapes or other media and any databases established to store or retain the Work. The Consultant may retain a copy of the work for its files in order to engage in future consultation with the City and to satisfy professional records retention standards. The Consultant represents and warrants that the Work does not and will not infringe upon any intellectual property rights of other persons or entities.

Each party acknowledges and agrees that each party is the sole and exclusive owner of all right,

title, and interest in and to its services, products, software, source and object code, specifications, designs, techniques, concepts, improvements, discoveries and inventions including all intellectual property rights thereto, including without limitations any modifications, improvements, or derivative works thereof, created prior to, or independently, during the terms of this Contract. This Contract does not affect the ownership of each party's pre-existing, intellectual property. Each party further acknowledges that it acquires no rights under this Contract to the other party's pre-existing intellectual property, other than any limited right explicitly granted in this Contract.

24. Equal Benefits Ordinance

Minneapolis Code of Ordinances, Section 18.200, relating to equal benefits for domestic partners, applies to each Consultant and subcontractor with 21 or more employees that enters into a "contract", as defined by the ordinance that exceeds \$175,000. The categories to which the ordinance applies are personal services; the sale or purchase of supplies, materials, equipment or the rental thereof; and the construction, alteration, repair or maintenance of personal property. The categories to which the ordinance does not apply include real property and development contracts.

Please be aware that if a "contract", as defined by the ordinance, initially does not exceed \$175,000, but is later modified so the Contract does exceed \$175,000, the ordinance will then apply to the Contract. A complete text of the ordinance is available at: [Equal Benefits Ordinance](#). It is the Consultant's and subcontractor's responsibility to review and understand the requirements and applicability of this ordinance.

25. City Ownership and Use of Data

The City has adopted an Open Data Policy ("Policy"). The City owns all Data Sets as part of its compliance with this Policy. Data Sets means statistical or factual information: (a) created by the Consultant and contained in structural data sets; and (b) regularly created or maintained by or on behalf of the City or a City department which supports or contributes to the delivery of services, programs, and functions. The City shall not only retain ownership of all City Data Sets, but also all information or data created through the City's use of the software and /or software applications licensed by the Consultant (or any subcontractor of sub-consultant of the Consultant) to the City.

The City shall also retain the right to publish all data, information and Data Sets independently of this Contract with the Consultant and any of Consultant's subcontractors or sub-consultants involved in providing the Services, using whatever means the City deems appropriate.

The City shall have the right to access all data, regardless of which party created the content and for whatever purpose it was created. The Consultant shall provide bulk extracts that meet the public release criteria for use in and within an open data solution. The Consultant shall permit and allow free access to City information and Data Sets by using a method that is automatic and repeatable. The Data Sets shall permit classification at the field level in order to exclude certain data.

26. Small & Underutilized Business Program (SUBP) Requirements

Consultant must comply with the Small & Underutilized Business Program (SUBP), as detailed in Chapter 423 of the Minneapolis Code of Ordinances. The SUBP Ordinance applies to any contract for the provision of goods and services in excess of one hundred and seventy five thousand dollars (\$175,000).

The City of Minneapolis policy is to provide equal opportunities to all businesses, with an effort to redress discrimination in the City’s marketplace and in public contracting against Minority-Owned Business Enterprises (MBEs) and Women-Owned Business Enterprises (WBEs). Consultant must comply with the Small & Underutilized Business Program (SUBP), as detailed in Chapter 423 of the Minneapolis Code of Ordinances. The SUBP Ordinance applies to any contract for the provision of goods and services in excess of one hundred and seventy five thousand dollars (\$175,000). SUBP goals are set on contracts based on project scope, subcontracting opportunities, and availability of qualified MBEs/WBEs.

There are no specific SUBP goals on this RFP. However, if there are subcontracting opportunities later identified, Consultant shall inform the Contract Manager to obtain authorization as stated under the section titled “Subcontracting” in the Terms and Conditions. Consultant shall take action to afford MBEs and WBEs full and fair opportunities to compete on this contract and resulting subcontracts. To locate certified MBEs and WBEs under the Minnesota Unified Certification Program (MnUCP), please visit <http://mnucp.metc.state.mn.us/> or contact contractcompliance@minneapolismn.gov.

27. Miscellaneous Provisions

1. **Successors and Assigns** – This Contract shall be binding upon and inure to the benefit of the successors and assigns of the City and of the Consultant.
2. **Severability** – If any provision of this Contract is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Contract shall be construed and enforced as if such invalid or unenforceable provision had not been included.
3. **No Partnership or Joint Venture** – Neither the City nor the Consultant is an agent, partner, or joint venture of the other for any purpose or has any authority to bind the other.
4. **No Third-Party Beneficiaries** – This Contract does not create any third party beneficiary rights in any individual or entity that is not a party to this Contract.
5. **Waiver** – Failure to enforce any provision of this Contract does not affect the rights of the parties to enforce such provision in another circumstance. Neither does it affect the rights of the parties to enforce any other provision of this Contract at any time.
6. **Amendments** – This Contract may only be modified or changed by written amendment signed by authorized representatives of the City and the Consultant.
7. **Entirety of Contract** – This Contract and the Attachments/Exhibits thereto, constitute the entire and exclusive Contract of the parties.

Attachment E
Special Conditions for Federal and State Grant Funded Contracts (Revised:
October, 2020)

I. General Compliance:

The Subrecipient or Contractor agrees to comply with the requirements of all applicable Federal and State laws, regulations and policies issued pursuant to grant funds in this Contract. The Subrecipient or Contractor further agrees to use funds available under this Contract to supplement rather than supplant funds otherwise available. By entering into this Contract with the City, the Subrecipient or Contractor agrees to be bound by any and all requirements and obligations established by the Federal or State governmental entity that provided funds to the City that were used to pay for the Subrecipient or Contractor's activities or services.

A. Conduct:

Prohibition Against Lobbying - The Subrecipient or Contractor is prohibited from using funds provided herein or personnel employed in the administration of the program or project for political activities, lobbying or political patronage, pursuant to 2 C.F.R. Section 326 and Section 450.

Prohibition Against Employee Activities -- The Subrecipient or Contractor is prohibited from using the funds provided herein for advocating unionization or anti-unionization activities (See 29 U.S.C. Sections 141, 157 and 158).

Conflicts of Interest Within the Subrecipient or Contractor's Organization -- The Subrecipient or Contractor shall comply with 2 C.F.R. Section 318 (c) (2), which prohibits the sub-contracting of work or services to any parent, subsidiary, or affiliate of the Subrecipient or Contractor unless an impartial, competitive procurement method has been used to award the sub-contract.

B. Materials Produced by Subrecipient or Contractor

Grantor Recognition - The Subrecipient or Contractor shall ensure recognition of the role of the Grantor Agency identified by the City in providing the scope of work or services through this Contract (2 C.F.R. Part 200 Appendix II). In addition, the City will either own or retain a license in any intellectual property developed by the Subrecipient or Contractor as a result of this Contract (2 C.F.R. Section 315). The Subrecipient or Contractor may publish any research findings and will include a reference to the support provided herein in all publications made possible with funds made available under this Contract (37 C.F.R. Part 401).

Basis for Payment -- The payments to the Subrecipient or Contractor shall be based upon the Subrecipient or Contractor's satisfaction of specific requirements of the Grantor Agency and upon the production of Deliverables as indicated in the Scope of Services (See 31 U.S.C. Sections 6301 through 6308 and 2 C.F.R. Section 201, Section 301 and Section 328).

C. Employment Restrictions:

Notifications - The Subrecipient or Contractor's executive management will ensure that a notice of its affirmative commitments in regards to the U.S. Occupational Safety and Health Act of 1970 (29 U.S.C. Section 651 et, seq, and 29 C.F.R. Part 1910) and the Minnesota's Occupational Safety and Health Act of

1973 and Minnesota's Employee Right to Know Act of 1983 (MINNESOTA STATUTES, SECTIONS 182.65-.676) and all regulations promulgated thereunder, as now or hereafter amended, is made available to the Subrecipient or Contractor's employees and any applicable labor unions or worker's representatives.

Infringement Upon CBAs -- The Subrecipient or Contractor may not impair existing contracts for services or collective bargaining agreements nor displace currently employed workers, including no reduction in non-overtime, wages or benefits. Participants will not replace laid off employees nor infringe on other employees' promotional opportunities (Refer to 29 U.S.C. Section 157 and 29 C.F.R. Part 5).

II. Administrative Restrictions

A. Fees. The Subrecipient or Contractor is prohibited from charging an enrolled individual a fee for referral or program services (45 C.F.R. Part 92).

B. Use of Economic Procurement Methods Which Avoid Duplicative Acquisitions - The Subrecipient or Contractor shall comply with 2 C.F.R. Section 318(d) and maintain efficient and non-duplicative procurement methods.

III. General Federal and State Requirements

A. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 et seq.) as now or hereafter amended, which prohibits discrimination against individuals with disabilities in any federally assisted program or activity.

B. Hatch Act (5 U.S.C Section 1501-1508, 7321-7326) (*See also* 18 U.S.C. Sections 210-211, 594 et seq.) as now or hereafter amended, which prohibits the use of funds provided or personnel employed under this Contract from being used to conduct or engaging in certain political activities.

C. Endangered Species Act of 1973 (7 U.S.C. Section 136, 16 U.S.C. Section 1531 et seq.) as now or hereafter amended, which prohibits harm against plants, animals or habitats protected under the Act.

D. Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) as now or hereafter amended, which regulates wage, hour and other employment practices that govern the use of funds provided and the employment of personnel under this Contract.

E. The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as now or hereafter amended, which prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

F. The Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as now or hereafter amended, which prohibits discrimination against qualified individuals on the basis of disability.

G. Title IX of the Education Amendments of 1972 (20 U.S.C. Sections 1681-1688), as now or hereafter amended, which prohibits discrimination on the basis of sex in educational programs and in any activities receiving federal financial assistance.

H. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.), as now or hereafter amended, which prohibits discrimination against an individual on the basis of race, color or national

origin in any program or activity receiving federal financial assistance. These regulations apply to all employers, including State and Local governments, public and private employment agencies, and labor organizations.

- I. Drug Free Workplace Act of 1988** (41 U.S.C. Sections 8102 et seq.) as now or hereafter amended, and all regulations promulgated thereunder, including 2 C.F.R. Part 182 (as adopted by HUD at 2 C.F.R. Part 2429.10 et seq.), which require each grantee or sub-grantee (an "employer") to make a continuing good faith effort to maintain a drug free workplace, and mandate certain actions the "employer" must take to achieve this requirement.
- J. Promotion of Religion** (40 U.S.C. Section 121 et. seq.), which prohibits the promotion of religious activities or interests using federal grant funds.
- K. Regulations --** The Subrecipient or Contractor agrees to comply with the requirements, as applicable, of:
 - ⊕ Executive Order 12291: "Federal Regulations" (46 Fed. Reg. 13193 (Feb. 17, 1981))
 - ⊕ Executive Order 12259: "Leadership and Coordination of Fair Housing in Federal Housing Programs" (46 Fed. Reg. 1253 (Dec. 31, 1981))
 - ⊕ Executive Order 12549: "Debarment and Suspension" (51 Fed. Reg. 6370 (Feb. 18, 1986))
 - ⊕ Executive Order 13132: "Federalism" (64 Fed. Reg. 43255 (Aug. 4, 1999))
 - ⊕ Executive Order 12926 and 42 U.S.C. Section 1971 et. seq.: "Voter registration services for program participants"
 - ⊕ Executive Order 13279: "Non-discrimination against Religious Organizations"
 - ⊕ 24 C.F.R. Parts 84-85: "Non-Profit Organizations; Local Governments" (for HUD-funded contracts)
 - ⊕ 2 C.F.R. Part 200: "Uniform Grant Guidance"
 - ⊕ Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.) (Also known as the Fair Housing Act)
 - ⊕ 42 C.F.R. Chapter I, Subchapter D: "Grants" (Department of Health & Human Services)
 - ⊕ 31 C.F.R. Part 205: "Rules and Procedures for Efficient Federal-State Funds Transfers"
 - ⊕ 37 C.F.R. Part 401: "Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements"
 - ⊕ 49 C.F.R. Part 24: "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs"
 - ⊕ 29 C.F.R. Part 37: "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA)"

- L. Cost Certification.** Before the City releases any of the funds covered by this Contract, the Subrecipient or Contractor shall sign the following certification statement:

ALL PAYMENTS REQUESTED ARE FOR APPROPRIATE PURPOSES AND ARE IN ACCORDANCE WITH THE PROVISIONS OF THE GRANT APPLICATION OR PROPOSAL AND THE CONTRACT.

- M. Non-procurement Debarment and Suspension.** The Subrecipient or Contractor agrees to comply with 2 C.F.R. Part 180, Subpart C and to require each subcontractor, supplier or other party with whom the Subrecipient or Contractor contracts regarding the funding received pursuant to "covered transactions" as defined in 2 C.F.R. Part 180, Subpart B.

If the funding agency is the U.S. Department of Housing and Urban Development, Subrecipient or Contractor shall also comply with 2 C.F.R. Part 2424 and 2 C.F.R. Part 180, Subpart C.

If the funding agency is the U.S. Department of Health and Human Services, Subrecipient or Contractor shall also comply with 2 C.F.R. Part 376, Subpart C.

N. Equal Employment Opportunity. The Subrecipient or Contractor agrees to comply with Executive Order 11246, "Equal Employment Opportunity," (30 Fed. Reg. 12319 (Sept. 24 1969)) as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity" (32 Fed. Reg. 14303 (Oct. 13, 1967), as amended or supplemented, and as supplemented by regulations at 41 C.F.R. Chapter 60: "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

IV. Additional Conditions for Projects Involving Construction

A. Labor Standards

The Subrecipient or Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. § 3141 et seq.), as amended (further regulations and requirements are found at: <http://www.wdol.gov/dba.aspx>), the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 3701 et seq.), the Copeland "Anti-Kickback" Act (18 U.S.C. Section 875), and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Contract. The Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part and shall make such documentation available to the City for review upon request.

B. Land Covenants

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and 24 C.F.R. Part 1. In regard to the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Contract, the Subrecipient or Contractor shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United State are beneficiaries of and entitled to enforce such covenants. The Subrecipient or Contractor, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

C. Environmental Conditions

- 1) **Air and Water:** The Subrecipient or Contractor agrees to comply with the following regulations insofar as they apply to the performance of this Contract: 1) Clean Air Act (42 U.S.C. Section 7401 et seq.), as amended; 2) Federal Water Pollution Control Act (the Clean Water Act) (33 U.S.C. Sections 1251-1387), as amended, including regulations relating to inspection, monitoring, entry, and reports pursuant to 33 U.S.C. Section 1318, information and other requirements specified in

the regulations and guidelines issued thereunder; 3) Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 745, as amended; 4) National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.), as amended; and 5) HUD Environmental Review Procedures (24 C.F.R. Part 58), as amended.

2) Lead-Based Paint:

- (a) Residential Structures - The Subrecipient or Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract may be subject to HUD Lead-Based Paint Regulations (*see* 24 C.F.R. Part 35). Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning. The Subrecipient or Contractor shall also comply with the regulations contained in 40 C.F.R. Part 745, Subpart E for any renovation, repair and paint (RRP) work that occurs at any residential property constructed prior to 1978.
- (b) Commercial and Public Structures -- The Contractor shall comply with the regulations contained in 40 C.F.R. Part 745, Subpart L, including the licensing and work practices standards for public and commercial buildings, bridges and super structures.

D. Historic Preservation

The Subrecipient or Contractor agrees to comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966 (16 U.S.C. § 470 et seq.), as amended, the Archeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469-469c-1,) as amended, Executive Order No. 11593, and the procedures set forth in 36 C.F.R. Part 800, insofar as they apply to the performance of this Contract.

E. Progress Payments and Retainage

Unless otherwise prohibited by conditions for payment and receipt of the federal grant by the City, this Contract shall be subject to the provisions for security for completion of performance provided in Minnesota Statutes, Sections 15.71 through 15.74.

V. Federal Funding Accountability and Transparency Act of 2006 (FFATA)

(31 U.S.C. Section 6101 et seq.)

The FFATA applies to direct federal grants received by the City, which are provided as a sub award (sub grant, sub contract or sub recipient) to a first tier contractor or vendor. The City is obligated to report to a website maintained by the US Office of Management and Budget (OMB) certain information about entities that receive a sub award of federal funds in an amount of \$25,000 or more. As a sub awardee, sub recipient or contractor being paid in whole or in part by the City with federal grant proceeds, your organization is required to register with the Central Contractor Registry (CCR) and comply with the requirements of the Federal Sub-award Reporting System (FSRS). As a sub awardee of federal funds, the company/entity is required to obtain a unique, federal identification number (DUNS) and report total compensation of certain executive level members of the company/entity (see www.fsrs.gov for details).

VI. Certifications Regarding Covered Telecommunications Equipment or Services and Lobbying

Pursuant to 2 CFR Part 200.216, FAR Council Interim Rule Section 889, subsection (A)(1)(B), and 31 U.S.C. Section 1352, prior to the City's release of any of the funds covered by this Contract, the Subrecipient or Contractor shall sign the following certification statement:

The undersigned hereby certifies, to the best of his or her knowledge and belief, that:

- 1) THE UNDERSIGNED ENTITY DOES NOT USE ANY "COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES" AS DESCRIBED IN 2 CFR PART 200.216 AND FAR COUNCIL INTERIM RULE SECTION 889, SUBSECTION (A)(1)(B) OF THE JOHN S. MCCAIN NATIONAL DEFENSE AUTHORIZATION ACT, AS A SUBSTANTIAL OR ESSENTIAL COMPONENT OF ANY SYSTEM, OR AS CRITICAL TECHNOLOGY AS PART OF ANY SYSTEM, NOR DO THE ITEMS, EQUIPMENT, AND/OR SERVICES TO BE PROVIDED TO THE CITY PURSUANT TO THE ATTACHED CONTRACT QUALIFY AS SUCH "COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES." "COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES" INCLUDES ALL TELECOMMUNICATIONS EQUIPMENT OR SERVICES PRODUCED OR PROVIDED BY HUAWEI TECHNOLOGIES COMPANY OR ZTE CORPORATION, AND VIDEO SURVEILLANCE AND TELECOMMUNICATIONS EQUIPMENT OR SERVICES PRODUCED OR PROVIDED BY HYTERA COMMUNICATIONS CORPORATION, HANGZHOU HIKVISION DIGITAL TECHNOLOGY COMPANY, OR DAHUA TECHNOLOGY COMPANY, OR ANY SUBSIDIARIES OR AFFILIATES OF THE AFOREMENTIONED ENTITIES.
- 2) NO FEDERAL APPROPRIATED FUNDS HAVE BEEN PAID, OR WILL BE PAID, BY OR ON BEHALF OF THE UNDERSIGNED, TO ANY PERSON FOR INFLUENCING OR ATTEMPTING TO INFLUENCE AN OFFICER OR EMPLOYEE OF AN AGENCY, A MEMBER OF CONGRESS, AN OFFICER OR EMPLOYEE OF CONGRESS, OR AN EMPLOYEE OF A MEMBER OF CONGRESS IN CONNECTION WITH THE AWARDED OF ANY FEDERAL CONTRACT, THE MAKING OF ANY FEDERAL GRANT, THE MAKING OF ANY FEDERAL LOAN, THE ENTERING INTO OF ANY COOPERATIVE AGREEMENT, AND THE EXTENSION, CONTINUATION, RENEWAL, AMENDMENT, OR MODIFICATION OF ANY FEDERAL CONTRACT, GRANT, LOAN, OR COOPERATIVE AGREEMENT.
- 3) IF ANY FUNDS OTHER THAN FEDERAL APPROPRIATED FUNDS HAVE BEEN PAID OR WILL BE PAID TO ANY PERSON FOR INFLUENCING OR ATTEMPTING TO INFLUENCE AN OFFICER OR EMPLOYEE OF ANY AGENCY, A MEMBER OF CONGRESS, AN OFFICER OR EMPLOYEE OF CONGRESS, OR AN EMPLOYEE OF A MEMBER OF CONGRESS IN CONNECTION WITH THIS FEDERAL CONTRACT, GRANT, LOAN, OR COOPERATIVE AGREEMENT, THE UNDERSIGNED SHALL COMPLETE AND SUBMIT STANDARD FORM-LLL, "DISCLOSURE FORM TO REPORT LOBBYING," IN ACCORDANCE WITH ITS INSTRUCTIONS.
- 4) THE UNDERSIGNED SHALL REQUIRE THAT THE LANGUAGE OF THIS CERTIFICATION BE INCLUDED IN THE AWARD DOCUMENTS FOR ALL SUBAWARDS

AT ALL TIERS (INCLUDING SUBCONTRACTS, SUBGRANTS, AND CONTRACTS UNDER GRANTS, LOANS, AND COOPERATIVE AGREEMENTS) AND THAT ALL SUBRECIPIENTS SHALL CERTIFY AND DISCLOSE ACCORDINGLY.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 2 CFR Part 200.216, FAR Council Interim Rule Section 889, subsection (A)(1)(B), and 31 U.S.C. Section 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, _____

BY: _____

TITLE: _____

FOR: _____

(Organization)

Attachment F
Business Associate Agreement

This Business Associate Agreement (the “BAA”) is between the City of Minneapolis, Minnesota, a home rule charter city, through its School Based Clinics managed by the Minneapolis Health Department (“Covered Entity”) and _____ (“Business Associate”) (referred to collectively herein as the “Parties”).

RECITALS

WHEREAS, the City of Minneapolis is a hybrid entity and has designated its healthcare components and non-healthcare components as described in Resolution of the City Of Minneapolis Declaring the City a HIPAA Hybrid Entity, the School Based Clinics as the City’s Health Care Components and the Creation of a HIPAA Steering Committee, Resolution 2011R-337.

WHEREAS, Business Associate and Covered Entity desire and are committed to complying with all relevant federal and state laws with respect to the confidentiality and security of Protected Health Information (“PHI”), including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and accompanying regulations, as amended from time to time and the Health Information Technology for Education and Clinical Health Act (“HITECH”), and any regulations promulgated thereunder.

WHEREAS, this BAA is incorporated into the Contract between the Parties under which Business Associate is carrying out activities or functions involving the use of PHI, as this term is defined in 45 CFR Parts 160 and 164, and it replaces any prior agreement(s) entered concerning such PHI.

WHEREAS, Covered Entity and Business Associates must also comply with all requirements for protecting PHI under State Privacy regulations including but not limited to Minnesota Government Data Practice Act, Chapter 13 (“MGDPA”).

WHEREAS, some or all of the information to be disclosed under the Contract is required by the MGDPA and HIPAA to be protected against unauthorized use, Disclosure, modification or loss.

NOW THEREFORE, in order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

1. DEFINITIONS

1.1 Catch-all definition:

The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, 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.

1.2 Specific definitions:

- a. Business Associate.** “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this BAA, shall mean _____.

- b. **Covered Entity.** “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this BAA, shall mean the City of Minneapolis School Based Clinics.
- c. **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. SCOPE AND INTERPRETATION

The terms and conditions of this BAA shall supplement and amend the Contract between the Parties which provides for Business Associate’s creation, receipt, maintenance, access, transmission, use, and /or Disclosure of PHI, in any form or medium, including electronic PHI (“ePHI”), in Business Associate’s capacity as “Business Associate” to Covered Entity. Any ambiguity in this BAA shall be resolved to permit Covered Entity to comply with HIPAA. In case of any inconsistency or conflict between the Contract and the terms and conditions of this BAA, the terms and conditions of this BAA shall control. Except as supplemented and/or amended, the terms of the Contract shall continue to govern matters addressed in the Contract.

3. COMPLIANCE WITH APPLICABLE LAW

Beginning with the relevant effective date of the Contract, to the extent Business Associate meets the definition of a “Business Associate” of Covered Entity as such term is defined under HIPAA Rules, Business Associate and its Subcontractors, as applicable, shall comply with its obligations under this BAA and with all obligations of a business associate under the HIPAA Rules, as modified and other related laws, for so long as Business Associate creates, receives, maintains, accesses, or transmits PHI.

4. BUSINESS ASSOCIATE OBLIGATIONS AND ACTIVITIES

- 4.1 **Permissible Use and Disclosure of PHI.** In additional to the Uses and Disclosures necessary to perform the services set forth in the Contract, Business Associate may use and disclose PHI:
 - a. For its own proper management and administration.
 - b. To carry out its legal responsibilities.
 - c. For Data Aggregation purposes as required or requested in writing by Covered Entity.
 - d. As Required by Law.
- 4.2 **Limitations on Use and Disclosure of PHI.** Business Associate shall not, and shall ensure that its directors, officers, employees, agents, and Subcontractors do not, use or disclose PHI in any manner that is not permitted or required by the Contract or this BAA, or as Required by Law. All Uses and Disclosures of, and requests by Business Associate for, PHI are subject to the HIPAA Rules’ Minimum Necessary Rule and shall be limited to the information contained in a Limited Data Set, to the extent practical, unless additional information is needed to accomplish the intended purpose, or as otherwise permitted in accordance with Section 13405(b) of HITECH, and any other subsequently adopted guidance. Additionally, Business Associate must ensure that neither it nor its directors, officers, employees, agents, or Subcontractors, access, store, share, maintain, Use, or disclose PHI outside of the United States of America.
- 4.3 **Safeguards Prior to Disclosure.** If Business Associate discloses PHI to a third party for any reason listed in paragraph 4.1, Business Associate shall obtain the following prior to Disclosure:

- a. Reasonable assurances from the receiving party that such PHI will be held confidential and be disclosed only for the purposes for which it was disclosed to such receiving party or as Required by Law in accordance with HIPAA, and
- b. An agreement from the receiving party to notify in a timely fashion Business Associate of any known Breaches of the confidentiality of the PHI.

In the event that Business Associate is authorized by Covered Entity to de-identify PHI, Business Associate must specify to Covered Entity the manner in which Business Associate will de-identify information.

4.4 Security. To the extent that Business Associate creates, receives, maintains, or transmits ePHI on behalf of Covered Entity, Business Associate shall:

- a. Comply with the security provisions found at Subpart C of 45 CFR Part 164 in the same manner as such provisions apply to Covered Entity, pursuant to §13401(a) of HITECH, and otherwise implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of ePHI.
- b. Ensure that any agent to whom Business Associate provides ePHI agrees in writing to implement reasonable and appropriate safeguards to protect such ePHI; and
- c. Report to Covered Entity within ten (10) business days any Security Incident of which Business Associate becomes aware and which results in a Use or Disclosure of ePHI in violation of the Contract or this BAA.

4.5 Privacy. To the extent that Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of its obligation(s) under this BAA. Business Associate shall also otherwise implement appropriate safeguards in accordance with the Privacy Standards to prevent the Use or Disclosure of PHI other than pursuant to the terms and conditions of this BAA. Business associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

4.6 Mitigation of Harmful Effects. Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA, including, but not limited to, compliance with any state law or contractual data Breach requirements.

4.7 Breach of Security or Privacy Obligations.

- a. Business Associate shall report to Covered Entity, within ten (10) business days of discovery, a Use or Disclosure of PHI not provided for in this BAA by Business Associate, its officers, directors, employees, agents, or Subcontractors or by a third party to whom Business Associate disclosed PHI.
- b. Business Associate shall report to Covered Entity, within ten (10) business days of discovery, a Breach of Unsecured PHI in accordance with the requirements set forth in 45 C.F.R. §§ 164.400-.414. Business Associate shall fully cooperate with Covered Entity's Breach notification and mitigation activities, and shall be responsible for all reasonable costs

incurred by Covered Entity for those activities caused by a breach by Business Associate of the terms of this Agreement.

- 4.8 Agreements by Third Parties.** Business Associate shall enter into an agreement with any agent or Subcontractor of Business Associate that will have access to PHI hereunder. Pursuant to such agreement, the agent or Subcontractor shall agree to be bound by the same or similar restrictions, terms, and conditions that apply to Business Associate under this BAA with respect to such PHI. Business Associate agrees to provide Covered Entity a list of all its agents or Subcontractors upon request.
- 4.9 Access to Information.** Within ten (10) business days of a request by Covered Entity for access to PHI about an Individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such PHI for so long as such information is maintained by Business Associate in the Designated Record Set, as required by 45 C.F.R. § 164.524. In the event any Individual delivers a request for access to PHI directly to Business Associate, Business Associate shall, within ten (10) business days, forward such request to Covered Entity.
- 4.10 Availability of PHI for Amendment.** Within ten (10) business days of a request by Covered Entity for the amendment of an Individual's PHI or a record regarding an Individual contained in a Designated Record Set, Business Associate shall provide such information to Covered Entity for so long as PHI is maintained in the Designated Record Set, as required by 45 C.F.R. § 164.526. In the event any Individual delivers a request for amendment of PHI directly to Business Associate, Business Associate shall, within ten (10) business days, forward such request to Covered Entity.
- 4.11 Documentation of Disclosures.** Business Associate agrees to document Uses and Disclosures of PHI and information related to such Uses and Disclosures as required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- 4.12 Accounting of Disclosures.** Within ten (10) business days of notice by Covered Entity to Business Associate that Covered Entity has received a request for an accounting of Disclosures of PHI regarding an Individual during the six (6) year period prior to the date on which the accounting was requested, Business Associate shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of Disclosures of PHI, as required by 45 C.F.R. § 164.528. In the case of an electronic health record maintained or hosted by Business Associate on behalf of Covered Entity, the accounting period shall be three (3) years and the accounting shall include Disclosures for treatment, payment, and Health Care Operations, in accordance with the applicable effective date of Section 13402(a) of HITECH. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward such request to Covered Entity within ten (10) business days of receipt.
- 4.13 Judicial and Administrative Proceedings.** In the event Business Associate receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, Business Associate shall notify Covered Entity in writing prior to responding to such request to enable Covered Entity to object. Business Associate shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within ten (10) business days of receipt of such request.
- 4.14 Availability of Books and Records.** Business Associate agrees to make its internal practices, books, and records relating to the Use and Disclosure of PHI available to the Secretary of the

Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Standards.

- 4.15 Restrictions.** Business Associate shall comply with any restrictions on Disclosure of PHI requested by an Individual and agreed to by Covered Entity in accordance with 45 C.F.R. § 164.522.

5. OBLIGATIONS OF COVERED ENTITY

- 5.1 Notice of Privacy Practices.** Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.
- 5.2 Revocation of Authorization of Individual.** Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.
- 5.3 Restrictions on Use and Disclosure.** Covered Entity shall notify Business Associate of any restriction on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.
- 5.4 Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

6. TERM AND TERMINATION

- 6.1 Term.** The Term of this BAA shall be effective as of the date signed by authorized representatives of both parties, and shall terminate upon termination of the underlying Contract or on the date Covered Entity terminates for cause as authorized in paragraph 6.2 of this Section, whichever is sooner.
- 6.2 Termination for Cause.** Notwithstanding any provision to the contrary in the Contract, Covered Entity may terminate its participation in the Contract immediately upon written notice to Business Associate without liability for such termination, in the event that Covered entity determines that Business Associate has violated a material provision of the BAA. Alternatively, Covered Entity may, upon a Breach or violation of this BAA, provide a reasonable opportunity for Business Associate to cure or end any such violation within the time specified by Covered Entity. Covered Entity's option to have a Breach cured shall not be construed as a waiver of any other rights Covered Entity has in the Contract, this BAA or by operation of law or in equity.
- 6.3 Obligations of Business Associate Upon Termination.** Upon termination of this BAA for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate or a Subcontractor still maintains in any form, recorded on any medium, or stored in any storage system. This provision shall apply to PHI that is in the possession of Business Associate, its agents and Subcontractors. Business Associate shall retain no copies of the PHI and must certify destruction upon Covered Entity's request

If it is not feasible for Business Associate to return or destroy said PHI, Business Associate shall provide to Covered Entity a written explanation of the conditions that make return or destruction

infeasible, and shall continue to extend the protections of this BAA, to such PHI and to limit any further Uses and/or Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If it is not feasible for Business Associate to obtain any PHI in the possession of the Subcontractor or agent, it shall provide to Covered Entity a written explanation of the conditions that make return or destruction infeasible, and shall require the Subcontractors and agents to agree to continue to extend the protections contained in this BAA to the PHI and to limit any further Uses and/or Disclosure of the PHI to the purposes that make the return or destruction of the PHI infeasible, for so long as the Subcontractor or agent maintains such PHI. Business Associate shall ensure its Subcontractor(s)' compliance with this subsection.

6.4 Survival. The obligations of business associate under this Section 6 shall survive the termination of this BAA.

7. MISCELLANEOUS

7.1 Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended.

7.2 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

7.3 Interpretation. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.

7.4 Injunctive Relief. Business Associate stipulates that its unauthorized Use or Disclosure of PHI while performing services pursuant to this BAA would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.

7.5 Indemnification. Business Associate shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, agents, and Subcontractors, from any and all claims, penalties, fines, costs, liabilities, or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate of its obligations under this BAA.

7.6 Notices. Communication and details concerning this BAA shall be directed to the representatives listed in the Notices section of the Contract.

7.7 Third Party Rights. The terms of this BAA do not grant any rights to any third parties.

7.7 Owner of PHI. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any PHI of Covered Entity.

IN WITNESS WHEREOF, -----and the City have caused this BAA to be executed in their behalf respectively by their proper officers as follows:

FOR THE CONTRACTOR:

By _____

Its _____

By signing this Addendum to the Contract, I represent that I have the authority to enter into and bind the Contractor to this BAA.

FOR THE CITY:

By _____

Its Department Head