

**PROFESSIONAL SERVICES AGREEMENT
FOR
MOBILE MENTAL WELLNESS COLLABORATIVE SERVICES**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Professional Services Agreement (Agreement) is entered into between the City of San Antonio (“City”), a Texas Municipal Corporation, on behalf of the San Antonio Metropolitan Health District (“Metro Health”), acting by and through its City Manager or designee, pursuant to Ordinance No. 2022- _____ passed and approved on the _____, and The Meadows Mental Health Policy Institute for Texas (“MMHPI” or “Subrecipient”), hereinafter collectively referred to as the “Parties.”

WHEREAS, in August 2020, the prevalence of symptoms of anxiety disorder was approximately three times those reported in the second quarter of 2019 (25.5% versus 8.1%) and the prevalence of depressive disorder was approximately four times that reported in the second quarter of 2019 (24.3% versus 6.5%); and

WHEREAS, the Centers for Disease Control and Prevention (CDC) identified that support systems to mitigate mental health consequences due to the pandemic will continue to be needed urgently; and

WHEREAS, developing a robust mental health collaborative will allow Metro Health and its collaborating entities to reduce risks and promote resilience in our community; and

WHEREAS, the U.S. Department of Health and Human Services’ CDC’s National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Population and Rural Communities grant project aims to address COVID-19 and advance health equity (e.g., through strategies, interventions, and services that consider systemic barriers and potentially discriminatory practices that have put certain groups at higher risk for diseases like COVID-19) in racial and ethnic minority groups and rural populations within state, local, US territorial, and freely associated state health jurisdictions (Grant Project); and

WHEREAS, consistent with the intent of the Grant Project, City desires MMHPI to provide services related to establishing a *Mobile Mental Wellness Collaborative*; and

WHEREAS, MMHPI represents that it possesses the knowledge, ability, professional skills, and qualifications to perform this work in an expeditious and economical manner consistent with City’s interests;

NOW THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, the parties agree as follows:

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"MMHPI" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of the San Antonio Metropolitan Health District (“Metro Health”).

“National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Population and Rural Communities” shall mean the U.S. Department of Health and Human Services’ (HHS), Centers for Disease Control and Prevention Grant (CDC Grant) which provides some of the funding for this Agreement (FAIN: NH75OT000083, CFDA #93.391).

II. TERM

- 2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall start January 1, 2022 and terminate on September 30, 2022. The City shall have the option to renew this Agreement for one (1), one (1) year term subject to the City's receipt of additional monies sufficient to fund the renewal term. The renewal shall be in writing and signed by the Director, or designee, without further action by the San Antonio City Council.
- 2.2 This Agreement is conditioned upon an award of sufficient funding to City by federal or state agencies. City retains the right to terminate this Agreement if funding is not awarded to City. Any additional contract period beyond the initial term set forth in 2.1 is also subject to and conditioned upon subsequent appropriation of funding or grant awards.
- 2.3 MMHPI further agrees and understands that the City expects to pay in part obligations of this Agreement from the CDC Grant funding. Accordingly, if funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor MMHPI will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

- 3.1 MMHPI agrees to provide the services described in this Article III. entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

MMHPI shall establish a *Mobile Mental Wellness Collaborative* to include identifying leadership and staffing needs, data administration, marketing, outreach to potential clients, technology, community engagement and the implementation of school-based behavioral and mental health counseling services consistent with the attached **Attachment I-Statement of Work** incorporated for all purposes. If this Agreement is renewed, the Statement of Work deadlines during the renewal term shall be updated as determined by City.

- 3.2 All work performed by MMHPI hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by MMHPI, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should MMHPI's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated in this Agreement, even should City elect not to terminate. City shall notify MMHPI in writing of any decision to withhold payment.

IV. COMPENSATION TOMMHPI

- 4.1 In consideration of MMHPI's performance in a satisfactory and efficient manner, as determined solely by the Director, of all services and activities set forth in this Agreement, City agrees to pay MMHPI up to \$565,190.00 as total compensation, to be paid to MMHPI according to the attached **Budget Description-Attachment II**, attached hereto and incorporated for all purposes. If City exercises its option to renew this Agreement, City agrees to pay MMHPI up to \$582,146.00 during the renewal period according to the attached **Budget Description-Attachment III**, attached hereto and incorporated for all purposes.

MMHPI shall submit an initial, one-time invoice by February 15, 2022 in an amount up to \$100,000.00 which shall include a reconciliation and accounting of expenditures made to contractors and supporting documentation such as, but not limited to, a general ledger, invoices from contractors, proof of payment and deliverables and any other appropriate documentation as required by City to ensure the appropriate amount of each payment is submitted.

Upon completion of the initial reconciliation of expenses, the City will reimburse MMHPI for actual expenses incurred on a cost reimbursement basis for eligible activities approved by City and only for allowable costs

incurred by MMHPI. MMHPI shall submit invoices and general ledger, which detail the specific costs MMHPI expended for the services delivered as described in Section II. Scope of Services and any supporting documentation of costs as may be required by City.

- 4.2 City and MMHPI agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City receives an invoice which, following the submission of the initial, one-time invoice described in section 4.1, will be submitted monthly by the 15th of the month for services and activities provided during the previous month with appropriate documentation as required by City, from MMHPI for said services.
- 4.3 No additional fees or expenses of MMHPI shall be charged by MMHPI nor be payable by City. The parties hereby agree that all compensable expenses of MMHPI have been provided for in the total payment to MMHPI as specified in section 4.1 above. Total payments to MMHPI cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties evidenced in writing and approved consistent with appropriate City policy.
- 4.4 It is expressly understood and agreed by the City and MMHPI that City's obligations under this Agreement are contingent upon the actual receipt of adequate grant funds from the CDC Grant to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate grant funds to pay obligations under this Agreement, then this Agreement shall terminate and neither MMHPI nor City shall have any further obligations hereunder.
- 4.5 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to MMHPI following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than MMHPI, for the payment of any monies or the provision of any goods or services.
- 4.6 All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.
- 4.7 Invoices shall include Purchase Order number provided by City and submit via email to City's Accounts inbox (Accounts.Payable@sanantonio.gov) with a copy to Cecilia.Oduro@sanantonio.gov and SAMHD.Invoices@sanantonio.gov or by mail at the following address with a copy to Cecilia.Oduro@sanantonio.gov:

City of San Antonio
Attn: Accounts Payable
PO Box 839976
San Antonio, TX 78283-3976
- 4.8 MMHPI agrees to provide any and all documentation required for inclusion in any report required by the City or funding agency. Final acceptance of work products and services require written approval by City. The approving official shall be the Director. Payment will be made to MMHPI following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than MMHPI, for the payment of any monies or the provision of any goods or services.
- 4.9 City acknowledges that the compensation to be provided to MMHPI by City in this Article IV. Compensation may not be sufficient to cover all MMHPI's costs to provide the services and deliverables described in this Agreement. Nothing in this Agreement shall be construed as prohibiting MMHPI from obtaining from other sources such additional funds as may be required by MMHPI to provide the services and deliverables described in this Agreement.

V. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

- 5.1 Any and all writings, documents or information in whatsoever form and character produced by MMHPI pursuant to the provisions of this Agreement are the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by MMHPI.
- 5.2 MMHPI understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.
- 5.3 In accordance with Texas law, MMHPI acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on behalf of MMHPI pursuant to this Agreement shall be the subject of any copyright or proprietary claim by MMHPI. Any intellectual property rights associated with the tool, work product or deliverables developed under this Agreement shall be the property of City, and MMHPI shall execute any documents necessary to assign said intellectual property rights to City. MMHPI further agrees that any tool or work product developed under this agreement shall be a work-for-hire as defined in Title 17 USC Section 201 and any copyright shall be the property of City.

The term "*local government record*" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

- 5.4 Intellectual property rights shall be in accordance with all terms and conditions outlined in the grant award including applicable regulations governing patents and inventions issued by the Department of Commerce at 37 CFR part 401.
- 5.5 The Federal government reserves a royalty-free, nonexclusive, and irrevocable license for the Federal government to reproduce, publish, or otherwise use the data produced and authorize others to do so for Federal purposes.
- 5.6 Notwithstanding the foregoing, City hereby grants to MMHPI a royalty-free, nonexclusive, and irrevocable license to use, modify, and enhance the work product or deliverables developed under this Agreement, provided such use, modification, or enhancement is in furtherance of tax-exempt purposes described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

VI. RECORDS RETENTION

- 6.1 MMHPI and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records (including timesheets and certifications) and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established in this Agreement, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.
- 6.2 MMHPI shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years or whatever period is determined necessary based on the Records Retention (hereafter referred to as "retention period") guidelines established by applicable law for this Agreement from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, MMHPI shall retain the records until the resolution of such litigation or other such questions MMHPI acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require MMHPI to return the documents to City at MMHPI's expense prior to or at the conclusion of the retention period. In such event, MMHPI may retain a copy of the documents at its sole cost and expense.

- 6.3 MMHPI shall notify City, immediately, in the event MMHPI receives any requests for information from a third party, which pertain to the documentation and records referenced in this Agreement. MMHPI understands and agrees that City will process and handle all such requests.
- 6.4 S.B. 943 – Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, MMHPI acknowledges that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, contractor, potential vendor, or potential contractor, may apply to this contract. MMHPI agrees that the contract can be terminated if MMHPI knowingly or intentionally fails to comply with a requirement of that subchapter.

MMHPI warrants and certifies, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous contract. City hereby relies on MMHPI’s certification, and if found to be false, City may reject the proposal or terminate the Contract for material breach.

VII. TERMINATION

- 7.1 For purposes of this Agreement, "termination" of this Agreement made pursuant to this Agreement, shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.
- 7.2 Termination Without Cause. Either party may terminate this Agreement without cause upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.
- 7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement, as of the date provided in the notice, in whole or in part, upon the occurrence of one or more of the following events, each of which shall constitute an Event for Cause under this Agreement:
- 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;
 - 7.3.2 Any material breach of the terms of this Agreement, as determined by City; or
 - 7.3.3 The failure to meet funding agency reporting requirements as set out and determined by City.
- 7.4 Defaults With Opportunity for Cure. Should MMHPI default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. MMHPI shall have 30 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If MMHPI fails to cure the default within such 30-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and City shall have the right to terminate this Agreement and to contract with another contractor to complete the work required by this Agreement. City shall also have the right to offset the cost of said new agreement with a new contractor against MMHPI's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.
- 7.4.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article X. Assignment and Subcontracting;
 - 7.4.2 Bankruptcy or selling substantially all of company’s assets;
 - 7.4.3 Failing to perform or failing to comply with any covenant herein required;
 - 7.4.4 Performing unsatisfactorily as determined by City;
 - 7.4.5 The failure to meet reporting requirements of the CDC Grant, as set out and determined by City;

- 7.4.6 Notification of any investigation, claim or charge by a local, state or federal agency involving fraud, theft or the commission of a felony.
- 7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties in this Agreement, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- 7.6 Regardless of how this Agreement, is terminated, MMHPI shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by MMHPI, or provided to MMHPI, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by MMHPI in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at MMHPI's sole cost and expense. Payment of compensation due or to become due to MMHPI is conditioned upon delivery of all such documents, if requested by City.
- 7.7 Within forty-five (45) calendar days of the effective date of completion, termination, or expiration of this Agreement, MMHPI shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by MMHPI to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by MMHPI of any and all right or claims to collect moneys that MMHPI may rightfully be otherwise entitled to for services performed pursuant to this Agreement.
- 7.8 Upon the effective date of expiration or termination of this Agreement, MMHPI shall cease all operations of work being performed by MMHPI or any of its subcontractors pursuant to this Agreement.
- 7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue MMHPI for any default hereunder or other action.
- 7.10 City shall pay MMHPI for conforming services provided prior to the date of termination, offset by any amounts due and owing from MMHPI to City.

VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either Party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
 Director, San Antonio Metropolitan Health District
 100 W. Houston, 8th floor
 San Antonio, Texas 78283-3966

If intended for MMHPI, to:

The Meadows Mental Health Policy Institute for Texas
 Andy Keller, President and Chief Executive Officer
 2800 Swiss Ave.
 Dallas, TX 75204

XIX. NON-DISCRIMINATION

- 9.1 As a party to this Agreement, MMHPI understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

9.2 MMHPI shall comply with all federal, State, or local laws, rules, and orders prohibiting discrimination, and shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Consistent with the foregoing, MMHPI agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by regulations at 41 C.F.R. Part 60. MMHPI further agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's Office. Additionally, MMHPI certifies that it will comply fully with the following nondiscrimination, minimum wage and equal opportunity provisions, including but not limited to:

- a) Title VI and VII of the Civil Rights Act of 1964, as amended;
- b) Section 504 of the Rehabilitation Act of 1973, as amended;
- c) The Age Discrimination Act of 1975, as amended;
- d) Title IX of the Education Amendments of 1972, as amended; (Title 20 USC sections 1681-1688);
- e) Fair Labor Standards Act of 1938, as amended;
- f) Equal Pay Act of 1963, P.L. 88-38;
- g) Drug Free Workplace Act of 1988 (41 U.S.C. section 8102); and
- h) All applicable regulations implementing the above laws.

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, MMHPI shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Metro Health, which shall be clearly labeled "The Meadows Mental Health Policy Institute for Texas Mobile Mental Wellness Collaborative Services Agreement" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Metro Health. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

10.3 A Contractor's financial integrity is of interest to the City; therefore, subject to MMHPI's right to maintain reasonable deductibles in such amounts as are approved by the City, MMHPI shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at MMHPI's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage must be on a per project aggregate.

d. Contractual Liability e. Independent Contractors f. Sexual Abuse/Molestation*	
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence
5. Professional Liability	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.
*If Applicable	

10.4 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. MMHPI shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. MMHPI shall pay any costs incurred resulting from provision of said documents.

City of San Antonio
Attn: San Antonio Metropolitan Health District
P.O. Box 839966
San Antonio, Texas 78283-3966

10.5 MMHPI agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

10.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, MMHPI shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend MMHPI's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

10.7 In addition to any other remedies the City may have upon MMHPI's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order MMHPI to stop work hereunder, and/or withhold any payment(s) which become due to MMHPI hereunder until MMHPI demonstrates compliance with the requirements hereof.

10.8 Nothing herein contained shall be construed as limiting in any way the extent to which MMHPI may be held responsible for payments of damages to persons or property resulting from MMHPI's or its subcontractors' performance of the work covered under this Agreement.

10.9 It is agreed that MMHPI's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

10.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation

contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

XI. INDEMNIFICATION

- 11.1 **MMHPI covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to MMHPI'S activities under this Agreement, including any acts or omissions of MMHPI, any agent, officer, director, representative, employee, consultant or subcontractor of MMHPI, and their respective officers, agents employees, directors and representatives while In the exercise of the rights or performance of the duties under this Agreement. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF CITY, ITS OFFICERS OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL OR BODILY INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT MMHPI AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 11.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. MMHPI shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or MMHPI known to MMHPI related to or arising out of MMHPI'S activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at MMHPI's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving MMHPI of any of its obligations under this paragraph.
- 11.3 Defense Counsel. City shall have the right to approve defense counsel to be retained by MMHPI in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. MMHPI shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If MMHPI fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and MMHPI shall be liable for all reasonable costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and rat its own expense, without waiving the foregoing.
- 11.4 Employee Litigation. In any and all claims against any party indemnified hereunder by any employee of MMHPI, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for MMHPI or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

- 12.1 MMHPI shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement, shall be the employees or subcontractors of MMHPI. MMHPI, its employees or its subcontractors shall perform all necessary work.
- 12.2 City understands that this Agreement is made in reliance thereon that MMHPI intends to use the following subcontractors: Jewish Family Service of San Antonio, Inc., Family Service Association of San Antonio, Rise Recovery, Children's Bereavement Center of South Texas and Clarity Child Guidance Center. Any other subcontractors shall be subject to approval and agreement by the Director.

- 12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. All expenditures by MMHPI or any of its subcontractors must be made in accordance with all applicable federal, state and local laws, rules and regulations. Compliance by subcontractors with this Agreement and funding source requirements shall be the responsibility of MMHPI. City shall in no event be obligated to any third party, including any subcontractor of MMHPI, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City.
- 12.4 Except as otherwise stated in this Agreement, MMHPI may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City. As a condition of such consent, if such consent is granted, MMHPI shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor MMHPI, assignee, transferee or subcontractor.
- 12.5 Any attempt to transfer, pledge or otherwise assign this Agreement or the performance of any duties hereunder without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should MMHPI assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of MMHPI shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by MMHPI shall in no event release MMHPI from any obligation under the terms of this Agreement, nor shall it relieve or release MMHPI from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

MMHPI covenants and agrees that MMHPI is an independent contractor and not an officer, agent, servant or employee of City; that MMHPI shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of "respondeat superior" shall not apply as between City and MMHPI, its officers, agents, employees, contractors, subcontractors and consultants, and nothing in this Agreement shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and MMHPI. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with services to be performed by MMHPI under this Agreement and that MMHPI has no authority to bind the City.

XIV. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

Commercial Nondiscrimination Policy Compliance. As a condition of entering into this Agreement, MMHPI represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, MMHPI shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. MMHPI's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the City pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. Consultant shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to City contracts.

XV. CONFLICT OF INTEREST

15.1 The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
- an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or
- an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

15.2 Pursuant to the subsection above, MMHPI warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. MMHPI further warrants and certifies that it has tendered to the City a Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and MMHPI, and subject to approval by the City Council, as evidenced by passage of an ordinance. The Director may execute contract amendments on behalf of City without the necessity of seeking any further approval by the City Council in the following circumstances a) modifications to the statement of work listed in the contract so long as the terms of the amendment stay within the parameters set forth in the original statement of work of the agreement; b) budget shift of funds authorized by the funding agency; and c) changes in state or federal regulations or mandated by the funding agency.

XVII. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

MMHPI warrants and certifies that MMHPI's employees, subcontractors and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. AUDIT

19.1 If MMHPI expends \$750,000.00 or more of funds provided under this Agreement, or cumulative funds provided by or through City, then during the term of this Agreement, MMHPI shall have completed an independent audit of its financial statements performed within a period not to exceed one hundred twenty (120) days immediately succeeding the end of MMHPI's fiscal year, expiration or early termination of this Agreement, whichever is earlier. MMHPI understands and agrees to furnish Metro Health a copy of the audit report within a period not to exceed twenty (20) days upon receipt of the report. In addition to the report, a copy of the corrective action plan, summary schedule of prior audit findings, management letter and/or

conduct of audit letter are to be submitted to Metro Health by MMHPI within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

- 19.2 MMHPI agrees to reimburse the City or supplement any disallowed costs with eligible and allowable expenses based upon reconciled adjustments resulting from MMHPI's Single Audit. Reimbursement shall be made within 20 calendar days of written notification regarding the need for reimbursement.
- 19.3 MMHPI agrees and understands that upon notification from federal, state, or local entities that have conducted program reviews and/or audits of MMHPI or its programs of any findings about accounting deficiencies, or violations of MMHPI's financial operations, a copy of the notification, review, investigation, and audit violations report must be forwarded to Metro Health within a period of ten (10) business days upon MMHPI's receipt of the report.
- 19.4 If MMHPI expends less than \$750,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contactor shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of MMHPI's fiscal year or termination of this Agreement, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by MMHPI attesting to the correctness of said financial statement.
- 19.5 All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each program funded by or through the City.
- 19.6 The City reserves the right to conduct or cause to be conducted an audit or review of all funds received under this Agreement at any and all times deemed necessary by City, not to exceed two times per 12 month period. The City Internal Audit Staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by the City, may perform such audit(s) or reviews. The City reserves the right to determine the scope of every audit. In accordance herewith, MMHPI agrees to make available to City all accounting and Project records. MMHPI acknowledges that this provision shall not limit the City from additional follow-up to audits or reviews, as necessary, or from investigating items of concern that may be brought to the City's attention which are other than routine.
- 19.7 MMHPI shall during normal business hours, and not to exceed two times per twelve month period by City and/or the applicable state or federal governing agency or any other auditing entity, make available the books, records, documents, reports, and evidence with respect to all matters covered by this Agreement and shall continue to be so available for a minimum period of three (3) years or whatever period is determined necessary based on the Records Retention guidelines, established by applicable law for this Agreement. Said records shall be maintained for the required period beginning immediately after Agreement termination, save and except there is litigation or if the audit report covering such agreement has not been accepted, then MMHPI shall retain the records until the resolution of such issues has satisfactorily occurred. The auditing entity shall have the authority to audit, examine and make excerpts, transcripts, and copies from all such books, records, documents and evidence, including all books and records used by MMHPI in accounting for expenses incurred under this Agreement, all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.
- 19.8 The City may, in its sole and absolute discretion, require MMHPI to use any and all of the City's accounting or administrative procedures used in the planning, controlling, monitoring and reporting of all fiscal matters relating to this Agreement, and MMHPI shall abide by such requirements.
- 19.9 When an audit or examination determines that MMHPI has expended funds or incurred costs which are questioned by the City and/or the applicable state or federal governing agency, MMHPI shall be notified and provided an opportunity to address the questioned expenditure or costs.
- 19.10 Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, MMHPI will immediately refund such amount to the City no later than ten (10) business days from the date of notification of such disapproval or disallowance by the City. At its sole option, Metro Health may instead deduct such claims from subsequent reimbursements; however, in the absence of prior notice by City of the exercise of such option, MMHPI shall provide to City a full refund of such amount

no later than ten (10) business days from the date of notification of such disapproval or disallowance by the City. If MMHPI is obligated under the provision hereof to refund a disapproved or disallowed cost incurred, such refund shall be required and be made to City by check, cashier's check or money order. Should the City, at its sole discretion, deduct such claims from subsequent reimbursements, MMHPI is forbidden from reducing Project expenditures and MMHPI must use its own funds to maintain the Project.

- 19.11 MMHPI agrees and understands that all expenses, fees, fines and penalties associated with the collection of delinquent debts owed by MMHPI shall be the sole responsibility of MMHPI and shall not be paid from any Project funds received by MMHPI under this Agreement.
- 19.12 If the City determines, in its sole discretion, that MMHPI is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have MMHPI pay for such audit from non-City resources.

XX. ADMINISTRATION OF AGREEMENT AND RESTRICTIONS ON USE OF FUNDS

- 20.1 MMHPI agrees to comply with all the terms and conditions that the City must comply with as a recipient of the National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Population and Rural Communities, HHS, CDC funding.
- 20.2 In the event that any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, the City Manager or the Director of Metro Health, as representatives of the City and the parties ultimately responsible for all matters of compliance with the CDC Grant funding and City rules and regulations, shall have the final authority to render or secure an interpretation.
- 20.3 MMHPI shall not use funds awarded from this Agreement as matching funds for any federal, state or local grant without the prior written approval of the Director of Metro Health.
- 20.4 Within a period not to exceed thirty (30) calendar days after the expiration, or early termination, date of the Agreement, MMHPI shall submit all required deliverables to City. MMHPI understands and agrees that in conjunction with the submission of the final report, MMHPI shall execute and deliver to City a receipt for all sums and a release of all claims against the Project.
- 20.5 MMHPI shall maintain financial records, supporting documents, statistical records, and all other books, documents, papers or other records pertinent to this Agreement or the grant in accordance with the official records retention schedules established within the Local Government Records Act of 1989 and any amendments thereto, or for such period as may be specifically required by 45 C.F.R §75, as applicable, whichever is longer. Notwithstanding the foregoing, MMHPI shall maintain all Agreement and related documents for no less than three (3) years from the date of City's submission of the annual financial report covering the funds awarded hereunder. If an audit, litigation, or other action involving the records has been initiated before the end of the three (3) year period, MMHPI agrees to maintain the records until the end of the audit, litigation, or other action is completed, whichever is later.
- 20.6 MMHPI shall make available to City, the State, funding agency or any of their duly authorized representatives, upon appropriate notice, such books, records, reports, documents, papers, policies and procedures as may be necessary for audit, examination, excerpt, transcription, and copy purposes, for as long as such records, reports, books, documents, and papers are retained. This right also includes timely and reasonable access to MMHPI's facility and to MMHPI's personnel for the purpose of interview and discussion related to such documents. MMHPI shall, upon request, transfer certain records to the custody of City or the State, or funding agency when City, or State or funding agency determines that the records possess long-term retention value.
- 20.7 Metro Health is assigned monitoring, fiscal control, and evaluation of certain projects funded by the City with general, state or federal funds, including the Project covered by this Agreement. Therefore, MMHPI agrees to permit City and/or State and/or the federal funding agency to evaluate, through monitoring, reviews,

inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement and to assess MMHPI's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by Metro Health, MMHPI shall furnish to Metro Health and the grantor of the funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by Metro Health and shall permit the City and grantor of the funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. MMHPI agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the Contactor of any liability to the City for failure to comply with the terms of the Project or the terms of this Agreement.

- 20.8 City may, at its discretion, conduct periodic, announced monitoring visits to ensure program and administrative compliance with this Agreement and Project goals and objectives. City reserves the right to make unannounced visits to MMHPI, or MMHPI subcontractor, sites when it is determined that such unannounced visits are in the interest of effective program management and service delivery.
- 20.9 City agrees that it will present the findings of any such review to MMHPI in a timely manner and will attempt to convey information of Program strengths and weaknesses and assist with Program improvement.
- 20.10 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by Metro Health shall be submitted by MMHPI to City within five (5) working days of the request. The parties agree that a shorter time frame may be necessary for response in the case of the single audit and shall cooperate to meet deadlines necessary to comply with the single audit requirements. In the event that MMHPI fails to deliver the required reports or information or delivers incomplete information within the prescribed time period, the City may, upon reasonable notice, suspend reimbursements to MMHPI until such reports are delivered to City. Furthermore, MMHPI ensures that all information contained in all required reports or information submitted to City is accurate.
- 20.11 Unless disclosure is authorized by the City, MMHPI agrees to maintain in confidence all information pertaining to the Project or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, project evaluation, project designs, data, other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Agreement. MMHPI shall protect the Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of the Confidential Information. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, MMHPI shall give the Director of Metro Health prior written notice that such disclosure is required with a full and complete description regarding such requirement. MMHPI shall establish specific procedures designed to meet the obligations of this Article, including, but not limited to execution of confidential disclosure agreements, regarding the Confidential Information with MMHPI's employees and subcontractors prior to any disclosure of the Confidential Information. This Article shall not be construed to limit the funding agency's, State's or the City's authorized representatives' right to obtain copies, review and audit records or other information, confidential or otherwise, under this Agreement. Upon termination or expiration of this Agreement, MMHPI shall return to City all copies of materials related to the Project, including the Confidential Information. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination of this Agreement. The Parties shall ensure that their respective employees, agents, and contractors are aware of and shall comply with the aforementioned obligations.

MMHPI shall execute a Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement in substantially the same form as shown in **Attachment IV**, which is intended to protect the privacy and provide for the security of Protected Health Information disclosed pursuant to this Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws.

In addition, MMHPI must take reasonable measures to safeguard protected personally identifiable information and other information the HHS awarding agency or City designates as sensitive or the City considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

- 20.12 Prohibited Political Activity. MMHPI agrees that no funds provided from or through the City shall be contributed or used to conduct political activities for the benefit of any candidate for elective public office, political party, organization or cause, whether partisan or non-partisan, nor shall the personnel involved in the administration of the Project provided for in this Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.
- 20.13 MMHPI agrees that no funds provided under this Agreement may be used in any way to attempt to influence, in any manner, a member of Congress or any other State or local elected or appointed official.
- 20.14 The prohibitions set forth in Sections 20.12 and 20.13 above include, but are not limited to, the following:
- (A) an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation;
 - (B) working or directing other personnel to work on any political activity during time paid for with City funds, including, but not limited to activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature;
 - (C) coercing personnel, whether directly or indirectly, to work on political activities on their personal time, including activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature; and
 - (D) using facilities or equipment paid for, in whole or in part with City funds for political purposes including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.
- 20.15 To ensure that the above policies are complied with, MMHPI shall provide every member of its personnel paid out of Agreement funds with a statement provided by MMHPI of the above prohibitions and have each said individual sign a statement acknowledging receipt of the policy. Such statement shall include a paragraph that directs any staff person who has knowledge of violations or feels that he or she has been pressured to violate the above policies to call and report the same to Metro Health. MMHPI shall list the name and number of a contact person from Metro Health on the statement that MMHPI's personnel can call to report said violations.
- 20.16 MMHPI agrees that in any instance where an investigation of the above is ongoing or has been confirmed, reimbursements paid to MMHPI under this Agreement may, at the City's discretion, be withheld until the situation is resolved, or the appropriate member of MMHPI's personnel is terminated.
- 20.17 Sections 20.12 through 20.16 shall not be construed to prohibit any person from exercising his or her right to express his or her opinion or to limit any individual's right to vote. Further, MMHPI and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with Agreement funds.
- 20.18 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to these funds, MMHPI agrees to comply with the following special provisions,
- (A) Under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity; and
 - (B) MMHPI, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceeding against the City remains unresolved.

XXI. COMPLIANCE

- 21.1 MMHPI shall provide and perform all services required under this Agreement in compliance with all

applicable federal, state and local laws, rules and regulations including, as applicable, all terms and conditions outlined in the grant award (to include the Notice of Funding Opportunity (NOFO) number CDC-RFA-OT21-2103, entitled National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Populations and Rural Communities, and application dated May 2, 2021, as may be amended, made a part of this Non-research award referred to as the Notice of Award (NoA)), including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements (GPS), available at: <http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards at 45 C.F.R. Part 75, requirements imposed by-program statutes and regulations, Executive Orders-and HHS grant administration regulations, as applicable; as well as CDC General Terms and Conditions for Non-research awards at <https://www.cdc.gov/grants/federalregulationspolicies/index.html>, and any requirements or limitations in any applicable appropriations acts.

To the extent applicable, MMHPI shall comply with the full scope of applicable grant regulations (45 C.F.R. 75.322), the purpose of this award, and the underlying funding, to include providing to CDC copies of and/or access to COVID-19 data collected with these funds, including but not limited to data related to COVID-19 testing. This award is contingent upon agreement by MMHPI to comply with existing and future guidance from the HHS Secretary regarding control of the spread of COVID-19.

- 21.2 MMHPI acknowledges that funds for this Agreement are provided by a federal entity. As such, MMHPI agrees to comply with applicable terms and conditions associated with said funds as directed by the federal entity, City or as required in this Agreement, including but not limited to: 2 CFR Part 200, entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards incorporated herein by reference. MMHPI must adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to MMHPI hereunder originated. MMHPI agrees to comply with all terms and conditions associated with said funds as directed by the funding agency, City or as required in this Agreement and as set out in **Attachment V**.
- 21.3 Disclosure Requirements. Consistent with 45 C.F.R. § 75.113, applicants and recipients must disclose, in a timely manner, in writing to the HHS Awarding Agency, with a copy to the HHS Office of the Inspector General, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS Office of the Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
Dedrick Muhammad, Grants Management Specialist
Centers for Disease Control and Prevention
Global Health Services Branch
2939 Flowers Road
Atlanta, GA 30341
Email: qtm2@ccc.gov (include “Mandatory Grant Disclosures” in subject line)

AND

US Department of Health and Human Services
Office of Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, DC 20201

Fax: (202)-205-0604 (Include “Mandatory Grant Disclosures” in subject line) or
Email: MandatoryGrantee Disclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. § 75.371. Remedies for noncompliance, including suspension or debarment (See 2 C.F.R. Parts 180 and 376, and 31 U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). (45 CFR 75.372(b)) CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award. (45 CFR 75.373(b))

XXII. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXIII. LAW APPLICABLE

23.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

23.2 Unless this Agreement provides otherwise, all claims, counterclaims, disputes, and other matters in question between City and MMHPI arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction.

23.3 Venue of any court action brought directly or indirectly as a result of this Agreement shall be in Bexar County, Texas.

XXIV. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for

ordinary business purposes.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXV. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXVI. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXVII. CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATIONS PROHIBITED

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. MMHPI hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on MMHPI's certification. If found to be false, or if MMHPI is identified on said list during the course of its contract with City, City may terminate the Contract for material breach.

XXVIII. LEGAL AUTHORITY

The signer of this Agreement for MMHPI represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of MMHPI and to bind MMHPI to all of the terms, conditions, provisions and obligations herein contained.

XXIX. PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXX. CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXIX. INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties:

- Attachment I- Statement of Work
- Attachment II- Budget description
- Attachment III- Budget description
- Attachment IV- Business Associate Agreement
- Attachment V- Additional Federal Funding Provisions

XXXI. ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and **AGREED** to as of the dates indicated below.

CITY OF SAN ANTONIO

**THE MEADOWS MENTAL HEALTH POLICY
INSTITUTE FOR TEXAS**

Andy Keller
Andy Keller (Jan 6, 2022 17:13 CST)

Claude A Jacob, Dr. PH(c), MPH
Health Director
San Antonio Metropolitan Health District

Andy Keller
President and Chief Executive Officer

Date: _____

Date: Jan 6, 2022

Approved as to Form:

_____ for
City Attorney

ATTACHMENT I- STATEMENT OF WORK

The San Antonio Metropolitan Health District (Metro Health) will initiate a cost reimbursement agreement with The Meadows Mental Health Policy Institute for Texas (MMHPI) to establish the backbone of the Mobile Mental Wellness Collaborative. This includes identifying leadership and staffing needs, data administration, marketing, outreach to potential clients, technology, community engagement and the implementation of school-based behavioral and mental health counseling services.

MMHPI shall provide the following deliverables during the contract term:

Deliverable 1:		
MMHPI shall provide program creation, marketing, outreach, administration, and oversight services in the provision of behavioral and mental health counseling sessions, and support services for students and their families. MMHPI shall allocate 8.5 FTE personnel (.5 FTE CEO, .5FTE COO, .5 FTE Chief Clinical Officer, 1 FTE Admin Support, 1 FTE Accounting Director, 1 FTE Contract Grant Writer, 1 FTE Data Administrator, 3 FTE licensed mental health counselors) to assist in providing these services.		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
Hire and/or assign dedicated staff; submit GL Report from accounting system as support to the monthly invoices.	2/28/22	GL Report from accounting system

Deliverable 2:		
MMHPI shall create fundraising, marketing, and outreach plans for the Mobile Mental Wellness Collaborative, conduct outreach activities, and promote efforts through social media.		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
Create the Mobile Mental Wellness Collaborative Fundraising Plan	2/28/22	Fundraising plan document
Create the Mobile Mental Wellness Collaborative Marketing Plan	2/28/22	Marketing plan document
Create the Mobile Mental Wellness Collaborative Outreach Plan	2/28/22	Outreach plan document

Deliverable 3:		
MMHPI shall conduct marketing and outreach activities, promote efforts through social media, and recruit two new school districts to the Mobile Mental Wellness Collaborative.		

Activities	Deadline(s)	Deliverables/Required invoice backup documentation
Distribute 1,000 rack cards	8/31/22	Monthly progress report
Distribute 1,000 flyers	8/31/22	Monthly progress report
Distribute 500 magnets	8/31/22	Monthly progress report
Distribute 400 curriculum guides	8/31/22	Monthly progress report
Distribute 400 posters	8/31/22	Monthly progress report
Distribute 200 stress balls	8/31/22	Monthly progress report
Add 200 subscribers to monthly e-newsletter	8/31/22	Monthly progress report
Reach 500 people monthly through social media outlets (Facebook and Instagram)	8/31/22	Monthly progress report
Conduct outreach reaching 2,900 people through in-person outreach efforts	8/31/22	Monthly progress report
Attend 40 community events to conduct outreach efforts (table set up or handing out flyers at school district-hosted events)	8/31/22	Monthly progress report
Make 15 outreach presentations about what the program offers (at school staff meetings, PTA meetings, convocation, school counselor meetings, etc.)	8/31/22	Monthly progress report
Make 50 educational presentations on a mental wellness topic to groups (e.g., PTA meetings) during education events and briefly inform the group about the Mobile Mental Wellness Coalition and available services offered through the Coalition.	8/31/22	Monthly progress report
Add two new school districts to the Collaborative during the 2021-2022 school year. This will entail onboarding the school districts with setting up referral processes, contracting, building processes and procedures, curriculum development, education,	3/31/22	Monthly progress report

marketing to the school district community (teachers, principals, parents, students).		
Provide marketing (social media and newsletter reach, as well as events where marketing materials were distributed) and outreach numbers (type of event and number of attendees) in the monthly report/supporting documentation in format agreed upon by City to the Violence Prevention Program as proof of marketing/outreach activities	Monthly, by 15 th of each month	Monthly progress report

Deliverable #: 4		
<p>Implement the Learning and Outreach Model in collaboration with the Harlandale ISD STEM Early College High School (San Antonio City Council District 3). The peer-to-peer learning model is a two-phase program in which high school students are trained and empowered to teach and advocate mental wellness topics to their fellow students, families, and school staff. The 2021-2022 school year will be the pilot year for this project. Rise Recovery and the STEM High School social worker shall evaluate the 2021-2022 pilot year of programming and develop a peer-to-peer learning curriculum that can be implemented by other participating school districts. School districts will be eligible to start a peer-to-peer learning program once it has been with the Collaborative a full school year.</p>		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
Conduct Learning and Outreach Model pilot project	6/30/22	Monthly progress report
Conduct evaluation of pilot project and develop peer-to-peer learning curriculum	8/31/22	Evaluation report
Provide status updates via monthly progress reports in format agreed upon by City.	Monthly, by 15 th of each month	Monthly progress report

Deliverable #: 5		
<p>MMHPI and Collaborative partner agencies will provide counseling sessions to students, staff, or family members that are referred by the school district's designated point-of-contact to the program. Treatment is guided by evidence-based practices such as Trauma Informed Therapy, Cognitive Behavioral Therapy and Eye Movement Desensitization and Reprocessing. Referrals to MMHPI/partner agency will be based on each mental health entity's expertise in a specific area:</p> <ul style="list-style-type: none"> • Children's Bereavement Center of South Texas provides grief counseling • Rise Recovery assists clients with substance abuse issues • Jewish Family Service of San Antonio, Inc. provides one-on-one and group counseling for depression and anxiety 		

<ul style="list-style-type: none"> Family Service Association provides one-on-one and group counseling for depression and anxiety Clarity Child Guidance Center serves those with acute issues needing more intensive psychiatric services 		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
<p>Conduct 350 individual unduplicated counseling sessions during the contract term.</p> <p><i>Estimated 80% of the individuals served will be students, 10% teachers and district staff, and 10% family members.</i></p>	6/30/22	Monthly progress report
Provide monthly report with number of unduplicated counseling sessions and age, gender, ethnicity, school district, and services received of unduplicated clients	Monthly, by 15 th of each month	Monthly progress report

Deliverable #: 6		
MMHPI and Collaborative partners will offer group therapy focused on the following topics: bereavement, depression, healthy relationships, managing anxiety, mindfulness, and anger management. Groups participants are students referred by a school counselor or social worker to MMHPI/Collaborative partner, who have been identified as potentially benefiting from a similar service/presenting issue. Groups are psychoeducational and/or supportive in nature and purpose.		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
<p>Conduct 20 completed group counseling sessions during the contract term. Each group will be 3 to 6 sessions in duration, with 3 to 12 youth attending each session. For clarification, a group of 8 youth who attend anxiety management once per week for six weeks would count as one completed group.</p>	6/30/22	Monthly progress report
Provide monthly report with number of completed group counseling sessions and age, gender, ethnicity, school district(s), attendance of youth, and subject matter of group counseling sessions.	Monthly, by 15 th of each month	Monthly progress report

Deliverable #: 7

MMHPI/Collaborative partners shall provide support services in the following areas at no cost to participating school district students, their family members, teachers, and district staff.

- Drug and alcohol intervention
- Psychiatry
- Education
- Case management
- Consultations
- Trauma-informed assessments

Activities	Deadline(s)	Deliverables/Required invoice backup documentation
<p>Provide support services to 6,000 unduplicated participants in the areas listed above during the contract term.</p> <p>“Support services” is a broad term used to describe the collective avenues (services) used to support the mental wellness of the school district community. This could include a range of services provided, from individual counseling where a counselor works extensively with one person's mental health needs all the way to a large education event where a counselor will teach about a mental wellness topic and provide tips that anyone can use to improve their mental wellness.</p>	6/30/22	Monthly progress report
<p>Provide monthly report/supporting documentation as proof of support service activities. Report will include (as applicable): age, gender, ethnicity, school district, services received. For one-time workshops and presentations, number of attendees will be provided.</p>	Monthly, by 15 th of each month	Monthly progress report

Deliverable #: 8

MMHPI shall submit a Final Report to the Metro Health Violence Prevention Public Health Administrator on or before the date the final invoice is submitted for the contract term. Report will include cumulative numbers of activities from the

monthly reports, as well as pre- and post-test results to demonstrate improvement after treatment and academic outcomes (for students only).		
Activities	Deadline(s)	Deliverables/Required invoice backup documentation
Prepare and submit the final report in format agreed upon by City.	October 15, 2022	Final report

**San Antonio Mobile Mental Wellness Collaborative
Metro Health Grant 2021-2022**

Personnel

Position Title	Employee	Annual Salary	% Time	Total
CEO	Talli Dolge	\$ 155,000	100%	\$ 155,000
Chief Clinical Officer	To Be Hired	\$ 100,000	50%	\$ 50,000
Accounting Director	To Be Hired	\$ 75,000	100%	\$ 75,000
Data Administrator	To Be Hired	\$ 30,000	100%	\$ 30,000
Grant Writer	To Be Determined	\$ 60,000	50%	\$ 30,000
<hr/>				
Total Salary				\$ 340,000

Benefits

Health Insurance				\$ 24,460
Life & Disability Insurance				\$ 7,749
Retirement - 403(b)				\$ 10,200
Social Security & Medicare Tax				\$ 26,010
Worker's Compensation Insurance				\$ 646
Unemployment Insurance				\$ 1,125
<hr/>				
Total Benefits				\$ 70,190
<hr/>				
Total Personnel Expenses				\$ 410,190

Contractual

Five half-time Licensed Mental Health Counselors				\$ 155,000
<hr/>				
Total Contractual				\$ 155,000
<hr/>				
Total Budget				\$ 565,190

**San Antonio Mobile Mental Wellness Collaborative
Metro Health Grant 2022-2023**

Personnel

Position Title	Employee	Annual Salary	% Time	Total
CEO	Talli Dolge	\$ 159,650	100%	\$ 159,650
Chief Clinical Officer	To Be Hired	\$ 103,000	50%	\$ 51,500
Accounting Director	To Be Hired	\$ 77,250	100%	\$ 77,250
Data Administrator	To Be Hired	\$ 30,900	100%	\$ 30,900
Grant Writer	To Be Determined	\$ 60,008	50%	\$ 30,004
Total Salary				\$ 349,304

Benefits

Health Insurance				\$ 25,992
Life & Disability Insurance				\$ 8,112
Retirement - 403(b)				\$ 10,506
Social Security & Medicare Tax				\$ 26,790
Worker's Compensation Insurance				\$ 667
Unemployment Insurance				\$ 1,125
Total Benefits				<u>\$ 73,192</u>
Total Personnel Expenses				<u>\$ 422,496</u>

Contractual

Five half-time Licensed Mental Health Counselors				<u>\$ 159,650</u>
Total Contractual				<u>\$ 159,650</u>
Total Budget				<u><u>\$ 582,146</u></u>

WITNESSETH:

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (**Agreement**) is entered into by and between the City of San Antonio (“**Covered Entity**”), and The Meadows Mental Health Policy Institute for Texas, a **Business Associate** (“**BA**”), referred to collectively herein as the “**Parties**.”

WHEREAS, the City of San Antonio and BA have entered into a Professional Services Contract (“**Service Contract**”), executed on _____, whereby BA provides services to the Covered Entity; and

WHEREAS, Covered Entity and BA may need to use, disclose and/or make available certain information pursuant to the terms of the Service Contract, some of which may constitute Protected Health Information (“**PHI**”); and

WHEREAS, Covered Entity and BA intend to protect the privacy and provide for the security of PHI disclosed to each other pursuant to the Service Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“**HIPAA**”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “**HIPAA Regulations**”), Health Information Technology for Economic and Clinical Health Act (“**HITECH Act**”) and other applicable laws; and

WHEREAS, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504(e) of the Code of Federal Regulations (“**C.F.R.**”), as the same may be amended from time to time;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions. For the purposes of this Agreement, the following terms have the meanings ascribed to them:

(1) “**Breach**” shall mean an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of the protected health information. An impermissible use or disclosure of protected health information is presumed to be a breach unless the covered entity or business associate, as applicable, demonstrates that there is a low probability that the protected health information has been compromised based on a risk assessment of at least the following factors:

- (a) the nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - (b) the unauthorized person who used the protected health information or to whom the disclosure was made;
 - (c) whether the protected health information was actually acquired or viewed;
- and

- (d) the extent to which the risk to the protected health information has been mitigated.
- (2) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. 164.501.
 - (3) “Disclosure” with respect to PHI, shall mean the release, transfer, provision of access to or divulging in any other manner of PHI outside the entity holding the PHI.
 - (4) “Health Information” is defined in 45 C.F.R. 160.103 as any information, including genetic information, whether oral or recorded in any form or medium that: (1) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.
 - (5) “Individual” means the person who is the subject of protected health information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502(g).
 - (6) “Individually Identifiable Health Information” is defined in 45 C.F.R. 160.103 as information that is a subset of health information, including demographic information collected from an individual, and: (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
 - (7) “Privacy Rule” shall mean the regulations for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subpart E.
 - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term "protected health information" in 45 C.F.R. 160.103, limited to the information created or received by BA from or on behalf of Covered Entity. PHI includes “Electronic Protected Health Information” or “E PHI” and shall have the meaning given to such term under the HIPAA Rule, including but not limited to 45 C.F.R. Parts 160, 162, 164, and under HITECH.
 - (9) "Required By Law" means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or

regulations that require such information if payment is sought under a government program providing public benefits. 45 C.F.R 164.103.

- (10) "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.
- (11) "Security Rules" shall mean the Security Standards for the Protection of Electronic Protected Health Information codified at 45 C.F.R. Part 164.
- (12) The Health Information Technology for Economic and Clinical Health ("HITECH") Act shall mean Division A, Title XII of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

B. BA Obligations and Activities. BA agrees that it shall:

- (1) Not use or disclose the PHI other than as permitted or required by this Agreement or as Required by Law;
- (2) Establish and maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect, consistent with the services provided under this Agreement, the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of Covered Entity;
- (3) Mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Agreement;
- (4) Report to Covered Entity any use or disclosure of PHI of which BA is aware or becomes aware that is not provided for or allowed by this Agreement as well as any Security Incident as defined by 45 C.F.R. 164.304 that BA becomes aware of;
- (5) Ensure that a business associate agreement is in place with any of its agents or subcontractors with which BA:
 - (a) does business, and
 - (b) to whom it provides PHI received from, or created or received by BA on behalf of, Covered Entity; and ensures such agents or subcontractors are aware of and agree to the same restrictions and conditions that apply through this Agreement to BA with respect to such information, and further agree to implement reasonable and appropriate administrative, physical and technical safeguards that render such PHI unusable, unreadable and indecipherable to individuals unauthorized to acquire or otherwise have access to such PHI;
- (6) Provide access, at the request of Covered Entity, and in a reasonable time and manner as agreed by the Parties, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements 45 C.F.R. §164.524;

- (7) Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of the Covered Entity or an Individual, and in a reasonable time and manner agreed to by the Parties;
- (8) Make available to the Covered Entity or to the Secretary all internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the BA on behalf of the Covered Entity, for purposes of the Secretary in determining Covered Entity's compliance with the Privacy Rule;
- (9) Document disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request from an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;
- (10) Provide Covered Entity or an Individual, in a reasonable time and manner as agreed to by the Parties, information collected in accordance with Section B(9) of this Agreement, to permit 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;
- (11) Immediately, and in no event later than three days from discovery, notify Covered Entity of any breach of PHI, including ePHI, and will coordinate with Covered Entity to identify, record, investigate, and report to an affected individual and U.S. Department of Health and Human Services, as required, any covered PHI breach. Breach notification to Covered Entity must include: names of individuals with contact information for those who were or may have been impacted by the HIPAA Breach; a brief description of the circumstances of the HIPAA Breach, including the date of the breach and date of discovery; a description of the types of unsecured PHI involved in the breach; a brief description of what the BA has done or is doing to investigate the breach and mitigate harm. BA will appoint a breach liaison and provide contact information to provide information and answer questions Covered Entity may have concerning the breach;
- (12) Comply with all Security Rules requirements;
- (13) Comply with the Privacy Rule for any obligation Covered Entity delegates to BA;
- (14) Under no circumstances sell PHI in such a way as to violate Texas Health and Safety Code, Chapter 181.153, effective September 1, 2012, nor shall BA use PHI for marketing purposes in such a manner as to violate Texas Health and Safety Code Section 181.152, or attempt to re-identify any information in violation of Texas Health and Safety Code Section 181.151, regardless of whether such action is on behalf of or permitted by the Covered Entity.

C. Permitted Uses and Disclosures by BA

- (1) Except as otherwise limited in this Agreement, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the

Service Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

- (2) Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.
- (3) Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).
- (4) BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 164.502(j)(1).

D. Obligations of Covered Entity. Covered Entity shall inform BA of its privacy practices and restrictions as follows. Covered Entity shall:

- (1) Notify BA of any limitations in its notice of privacy practices in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI;
- (2) Notify BA of any changes in, or revocation of, permission by any Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI;
- (3) Notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522 to the extent that such changes may affect BA's use or disclosure of PHI.
- (4) Coordinate with BA regarding any PHI breach and make timely notification to affected individuals within 60 days of discovery.

E. Permissible Requests by Covered Entity.

Covered Entity shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that the BA may use or disclose PHI for data aggregation or management and administrative activities of the BA.

F. Term and Termination.

- (1) This Agreement becomes effective on the date it is signed by the last Party. This Agreement shall terminate when all PHI encompassed by this Agreement is destroyed

or returned to Covered Entity or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions in this Section.

- (2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either (a) provide an opportunity for BA to cure the breach in accordance with the terms of the Service Contract or, if the BA does not cure the breach or end the violation within the time for cure specified in the Service Contract, end the violation and terminate this Agreement and the Service Contract; or (b) immediately terminate this Agreement and the Service Contract if BA has breached a material term of this Agreement and cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
 - (a) Except as provided below in paragraph (b) of this Section F(3), upon termination of this Agreement for any reason, BA shall return or destroy all PHI received from the Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of BA or its subcontractors or agents. BA shall not retain any copies of PHI.
 - (b) In the event that BA determines that returning or destroying PHI is infeasible, BA shall provide to Covered Entity written notification of the condition that makes the return or destruction of PHI infeasible. Upon BA's conveyance of such written notification, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make its return or destruction infeasible, for so long as BA maintains such PHI.
- (4) Notwithstanding any other provision under this Agreement, the Parties agree that the Service Contract may be terminated by either Party without penalty should the other Party violate a material obligation under this Agreement.

G. Amendment to Comply with Law. The Parties agree to take written action as is necessary to amend this Agreement to comply with any Privacy Rules and HIPAA legal requirements for Covered Entity without the need for additional council action.

H. Survival. The respective rights and obligations of the BA under Sections B, C (2) and (4), and F(3) shall survive the termination of this Agreement.

I. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit Covered Entity to comply with the Privacy Rule.

J. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or amended.

K. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, BA, and

their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

- L. **INDEMNIFICATION.** *BA WILL INDEMNIFY, DEFEND AND HOLD COVERED ENTITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BA IN ACCORDANCE WITH THE INDEMNITY PROVISIONS IN THE SERVICE CONTRACT, WHICH ARE HEREBY INCORPORATED BY REFERENCE FOR ALL PURPOSES.*

- M. **Reimbursement.** BA will reimburse Covered Entity for reasonable costs incurred responding to a PHI breach by BA or any of BA’s subcontractors.

- N. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

- O. **Assignment.** Neither party may assign (whether by operation of law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of BA.

- P. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Service Contract or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Service Contract comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

- Q. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas.

EXECUTED to be effective _____, 2022, by the **City of San Antonio**, signing by and through its program manager.

COVERED ENTITY
By City of San Antonio

BUSINESS ASSOCIATE:

Attachment IV-Business Associate Agreement

By: _____

By: Andy Keller
Andy Keller (Jan 6, 2022 17:13 CST)

Claude A. Jacob DrPH (c), MPH
Health Director

Andy Keller
President and Chief Executive Officer

San Antonio Metropolitan Health District

APPROVED AS TO FORM:

_____ for
City Attorney

ATTACHMENT V- ADDITIONAL FEDERAL FUNDING PROVISIONS

MMHPI agrees that MMHPI shall comply with the Office of Management and Budget (OMB) Circular at 2 C.F.R. 200 et al. entitled Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as applicable to the funds received by MMHPI as a subaward and are incorporated by reference. MMHPI must adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to MMHPI hereunder originated. MMHPI agrees to comply with all terms and conditions associated with said funds as directed by the City, the funding entity and as required in this Agreement, including but not limited to the following provisions and certifications, as applicable:

1. Subrecipient name-The Meadows Mental Health Policy Institute for Texas
2. Subrecipient's unique entity identifier- 071843124
3. Federal Award Identification Number (FAIN)- NH75OT000083
4. Federal Award Date of award to the recipient by the Federal agency- 05/28/2021
5. Subaward Period of Performance Start and End Date- 06/01/2021-05/31/2023
6. Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient-
7. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation- 500,000.00
8. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity- 500,000.00
9. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)- San Antonio Metropolitan Health District's initiative to Address COVID-19 Health Disparities among populations at high-risk and underserved, including racial and ethnic minority populations and rural communities.
10. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity- Contact Information – Department of Health and Human Services (HHS), Centers for Disease Control and Prevention, City of San Antonio Metropolitan Health District, Claude A. Jacob, DrPH(c), MPH, claud.jacob@sanantonio.gov
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement- 93.391 San Antonio Metropolitan Health District's Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Populations and Rural
12. Identification of whether the award is R&D- No
13. Indirect cost rate for the Federal award- N/A

1. Clean Air Act and the Federal Water Pollution Control Act

MMHPI agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. MMHPI agrees to report each violation to City and understands that City will, in turn, report each violation as required to the federal agency providing funds for this Agreement and the appropriate EPA Regional Office. MMHPI agrees to include these requirements in each subcontract to this Agreement exceeding \$150,000 financed in whole or in part with federal funds.

2. Debarment and Suspension

MMHPI is required to verify that neither the MMHPI nor its principals, as defined at 2 CFR 180.995, are excluded or disqualified as defined at 2 CFR 180.940 and 2 CFR 180.935, respectively.

The MMHPI is required to comply with 2 CFR Part 180, Subpart C and must include the requirement to comply with 2 CFR Part 180, Subpart C in any lower tier covered transaction it enters into.

By signing this Agreement, MMHPI certifies that:

Neither it nor its principals are presently debarred, suspended for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program; and

MMHPI shall provide immediate written notice to City if, at any time during the term of this Agreement, including any renewals hereof. MMHPI learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that MMHPI knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. MMHPI agrees to comply with the requirements of 2 CFR Part 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this Agreement MMHPI further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. Procurement of Recovered Materials

MMHPI and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

4. Certification Regarding Lobbying

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

- (1) 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 awarding 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.
- (2) 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, which can be found at <https://www.state.gov/documents/organization/149465.pdf>.
- (3) 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 section 1352, title 31, U.S.C. 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.

Andy Keller

Andy Keller (Jan 6, 2022 17:13 CST)

Signature of MMHPI's Authorized Official

President and Chief Executive Officer

Name and Title of MMHPI's Authorized Official

Jan 6, 2022

Date