

STATE OF UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES
CONTRACT FOR SERVICES

Log # [REDACTED]

Procurement # 91021

Contract # [REDACTED]

This contract is between the State of Utah Department of Health and Human Services (“DHHS”) and [REDACTED] (“Contractor”), and begins on April 1, 2023 and ends on March 31, 2028.

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The parties agree as follows.

Article 1: General Provisions

1.1 Attachments.

The following attachments are part of this contract:

Attachment A: Scope of Work

DHHS91021 Scope of Work and Rate Table posted at [REDACTED]

1.2 Definition. In this contract, the following definition applies:

“Subcontractor” includes each individual or entity that has an agreement with the Contractor to perform contractual services for which the Contractor is responsible. Subcontractor also refers to each individual or entity that has an agreement with a Subcontractor if that individual or entity performs any of the Subcontractor's duties.

1.3 Contract Purpose. To provide family based care for persons with problematic sexual behaviors, substance abuse disorders and behavioral and mental health diagnoses for DHHS.

1.4 Type and Amount of Contract. This contract is a: Non-Fixed Amount Rate-Based Contract. DHHS has not set a limit on the total amount the Contractor may receive for providing services. DHHS shall pay the Contractor based on individual units of service provided by the Contractor, payable at the rate stated in this contract.

1.5 Order of Interpretation. If this contract conflicts with other documents, the conflict will be resolved in the following order: this contract and signed amendments, the DHHS procurement, the attachments to this contract.

1.6 Contractor Contact Information. The Contractor shall ensure that its DHHS contract representative has current

contact information for the Contractor throughout the duration of this contract and throughout the duration of the Contractor's record retention responsibilities. The Contractor shall promptly notify DHHS of changes to contact information. Contact information includes the name and title of the individual authorized to receive legal and other notices regarding the contract; telephone number; email address; and street address.

- 1.7 **Independent Contractor.** The parties intend that the Contractor will be an independent contractor. The Contractor has no authorization to bind DHHS to any agreement, settlement, or liability. The Contractor shall not act as an officer, employee, or agent of DHHS.
- 1.8 **Contract Jurisdiction, Choice of Law, and Venue.** Utah law governs this contract. The parties shall submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this contract or the breach thereof. Venue will be in Salt Lake City, in the Third District Court for Salt Lake County.
- 1.9 **Registration with Utah Department of Commerce.** The Contractor shall maintain current registration with the Utah Department of Commerce, Division of Corporations and Commercial Code.
- 1.10 **Debarment.** DHHS may immediately terminate this contract if DHHS determines that the Contractor has been debarred, suspended, or otherwise lawfully excluded from participating in any agreement issued by a governmental entity, including but not limited to, being determined ineligible as a subcontractor of any governmental entity. The Contractor certifies that it is not currently suspended, debarred, or otherwise prohibited to enter this contract. The Contractor shall immediately notify DHHS if the Contractor becomes suspended, debarred, or otherwise ineligible for this or any other agreement issued by a governmental entity.
- 1.11 **Conflicts of Interest.** The Contractor shall not enter into any transaction that is improper or gives the appearance of being improper because of a conflict of interest. The Contractor shall complete and submit to DHHS the DHHS Conflict of Interest Disclosure Statement form ("**Disclosure Statement**"). The Contractor shall declare a conflict on the Disclosure Statement if it subcontracts with or employs a state employee. In addition to the remedies stated in this contract, DHHS may do any of the following: investigate potential conflicts of interest, require information from the Contractor, require remedial action, disapprove transactions, or require repayment of transactions.
- 1.12 **Contractor Conflict of Interest Policy and Internal Review.** The Contractor shall implement a written policy that requires its representatives, including employees, volunteers, and Subcontractors, to: 1) submit a conflict of interest Disclosure Statement upon hire and annually thereafter; 2) promptly disclose in writing to the Contractor all existing, potential, or contemplated conflicts of interest as they arise; 3) review annually all Disclosure Statements and its own operations to reasonably assure DHHS that the Contractor avoids prohibited conflicts of interest; 4) maintain Disclosure Statements in its personnel files; and 5) be trained on certification and disclosure requirements and laws governing conflicts of interest.
- 1.13 **Continuing Duty to Disclose Conflicts of Interest.** The Contractor shall continually and promptly review updated Disclosure Statements and submit a copy to DHHS whenever an existing or potential conflict of interest is disclosed. The Contractor shall require its Subcontractors to provide an updated Disclosure Statement to the Contractor upon any change regarding a conflict of interest.

- 1.14 **Subcontracts.** The Contractor shall not subcontract, assign, or delegate any right or obligation under this contract, in whole or in part, without the prior written consent of DHHS.
- 1.15 **Contract Assignment.** The Contractor shall not assign this contract or any portion thereof without the prior written consent of DHHS, which consent may be withheld for any reason. Notwithstanding any agreement between the assignor and assignee, DHHS may hold the assignor and assignee jointly and severally responsible for all obligations, losses, damages, injuries, liabilities, suits, claims, and proceedings arising out of the performance of this contract.
- 1.16 **Contract Amendments.** To be effective, amendments to this contract must be in writing, signed by the parties, and approved by the DHHS Office of Procurement & Contract Management except for the following for which written notification from DHHS will constitute an amendment to the contract without the Contractor's signature: 1) budgetary action that necessitates a change in rates or payments; 2) changes to Medicaid rates; 3) changes to financial reporting requirements; or 4) changes to the Scope of Work and the Rate Table by posting revised documents on the website listed in 1.1; or 5) any documents identified in an attachment as being subject to amendment without the Contractor's signature.
- 1.17 **Remedies.** If DHHS determines that the Contractor has not complied with this contract, DHHS may do any of the following: terminate this contract; pursue any remedy allowed by law; require corrective action; disallow expenditures and adjust payments to the Contractor by deducting the disallowed expenditures; withhold funds due the Contractor to cover the costs of any audits, legal fees, and other expenses; withhold the Contractor's payments until DHHS fully recoups any incorrectly paid funds; require repayment; remove clients from the Contractor; and suspend client placements or referrals.
- 1.18 **Administrative Dispute Review.** Before pursuing any legal remedy for a contract dispute, the Contractor shall file a written appeal, including the contract number and disputed issue, with the DHHS Deputy Director for Support Services no later than 30 days after the disputed DHHS action. The Contractor shall also provide a copy of its appeal to the DHHS Executive Director. DHHS shall issue a written response to the Contractor's appeal no later than 60 days after receiving the appeal.
- 1.19 **Contract Termination.** Either party may terminate this contract by written agreement or by giving the other party 30 days' written notice via email or other means. DHHS may immediately terminate this contract if: 1) DHHS identifies risk of harm to the clients served; 2) the Contractor does not maintain required licensing standards; 3) the Contractor does not comply with federal, state, or local laws, regulations, or ordinances; or 4) this contract becomes unnecessary, or the ability to fulfill the contract is made impossible, due to: a legislative change, revoked statutory authority, lack of appropriated funds, or unavailability of funds.
- 1.20 **Mitigation of Service Interruption.** If either party terminates this contract, both parties shall use reasonable efforts to provide for uninterrupted client services. Upon giving or receiving notice of intent to terminate this contract, DHHS may remove clients from the Contractor's services and take any other steps deemed necessary to ensure client services will be uninterrupted.
- 1.21 **Payments after Termination.** After termination of this contract, DHHS shall pay for any undisputed services that the Contractor provided. The Contractor shall make no claim for services not rendered. DHHS will not pay the Contractor for any of the Contractor's obligations or expenses that extend beyond the contract termination date.

- 1.22 **Financial Viability.** The Contractor shall remain financially viable. If DHHS receives notice of any lien or IRS withholding against the Contractor's payments, or bankruptcy, DHHS may immediately terminate the contract. The Contractor shall provide DHHS with proof of financial viability upon request.
- 1.23 **Legal Fees and Costs.** If either party seeks to enforce this contract upon a breach by the other party, or if one party seeks to defend itself against liability arising from the negligence of the other party, the unsuccessful party shall pay the prevailing party's court costs and its reasonable legal fees.
- 1.24
- 1.25 **Severability.** A determination that any provision of this contract is illegal or void will not affect the legality or enforceability of any other provision of this contract.
- 1.26 **Copyright.** If the Contractor creates work product for DHHS under this contract that is eligible for copyright protection, such work product will be deemed work for hire, and the Contractor shall assign all ownership rights to DHHS.
- 1.27 **Standard of Care.** The Contractor shall perform in accordance with the standard of care exercised by members of its profession having substantial experience providing services of a similar type, magnitude, and complexity to the services required in this contract. The Contractor shall be liable to DHHS for claims, liabilities, additional burdens, penalties, damages, or third-party claims caused by acts, errors, or omissions that do not meet this standard of care.
- 1.28 **Force Majeure.** The Contractor's performance will not be excused by force majeure.
- 1.29 **No Waiver.** If either party does not enforce a provision of this contract, or waives its right to suit or damages in the case of breach of contract, it retains its right to enforce provisions for later breaches.
- 1.30 **Entire Agreement.** This contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
- 1.31 **Job Opening Information Sharing.** The Contractor shall notify the Utah Department of Workforce Services of open job positions and provide a contact name and contact information for each position. The Department of Workforce Services may post this information on its website. This requirement does not preclude the Contractor from advertising job openings in other forums.

Article 2: Insurance, Indemnity, and Subrogation

- 2.1 **General Insurance Provisions.** Non-compliance with the insurance requirements of this contract will constitute a material breach of this contract. The Contractor shall obtain insurance that is acceptable to DHHS. DHHS may reject policies that contain exclusions or limitations, or both, that are unacceptable to DHHS. The Contractor shall obtain any commercial insurance from insurance companies authorized to do business in the State of Utah with an AM Best Company rating of "A-" or better and a financial size category of Class VII or larger.
- 2.2 **Insurance Deductibles and Similar Costs.** The Contractor shall pay any deductibles, self-insured retentions, self-insurance costs, and similar items and ensure that any such costs are stated in the certificate of insurance. Such costs must not exceed \$10,000 unless the DHHS Deputy Director for Support Services grants an exception.

- 2.3 **General Liability Insurance.** The Contractor shall maintain commercial general liability insurance written on an occurrence form that, at a minimum, covers the following types of liability: bodily injury, death, personal injury, property damage, and liability for the property of others in the care, custody, or control of the Contractor. The policy must have a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate. The insurance must cover each site where the Contractor performs services.
- 2.4 **Additional Insured Endorsement.** The Contractor's general liability insurance policy must include an endorsement that names the State of Utah, DHHS, and their officers and employees as additional insureds, and that provides the State of Utah, DHHS, and their officers and employees with primary and non-contributory coverage for any liability arising as a result of the Contractor's acts or omissions in connection with this contract.
- 2.5 **Automobile Insurance.** If the Contractor transports clients or goods, the Contractor shall maintain commercial automobile liability insurance that covers property damage, personal injury protection, and liability for the vehicles used by the Contractor. The policy must provide for a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence. If the Contractor subcontracts for all transportation, the Contractor may satisfy this requirement by submitting proof that its Subcontractor meets this requirement.
- 2.6 **Professional Liability Insurance.** The Contractor shall maintain professional liability insurance with a limit of not less than \$1,000,000 per occurrence, and \$3,000,000 aggregate, if any services are performed by professionals licensed by a professional licensing organization or the Utah Division of Occupational and Professional Licensing including, but not limited to, doctors, dentists, nurses, massage therapists, social workers, and mental health therapists. This insurance must cover damages caused by errors, omissions, and negligence. If the policy is written on a claims-made basis, the Contractor shall ensure that any retroactive date under the policy precedes the effective date of this contract, and that either continuous coverage is maintained, or extended reporting coverage is obtained, for a period of five years after this contract terminates. The Contractor shall email documentation of coverage to DHHS at dhscontracts@utah.gov.
- 2.7 **Self-Insured.** The Contractor may request approval to be self-insured. To request such approval, the Contractor shall: 1) provide DHHS with evidence that it is financially solvent and has established financial arrangements (such as a written comprehensive self-insurance program, performance bonds, or fidelity bonds) that will provide DHHS with adequate liability protection; 2) show that its ability to process and pay claims adequately, fairly, and in a timely manner is comparable to a commercial insurer; and 3) before signing this contract, obtain from the DHHS Deputy Director for Support Services a written statement that DHHS has approved the Contractor's self-insurance and that the Contractor is not required to obtain additional insurance. DHHS may include in this statement additional conditions to ensure that the Contractor's self-insurance is satisfactory to DHHS. DHHS may deny self-insurance for any reason or withdraw its approval of self-insurance at any time. If the Contractor is approved to be self-insured, the Contractor shall immediately notify DHHS at dhscontracts@utah.gov if its financial position or established financial arrangements change in a manner that may negatively impact its ability to process and pay claims comparable to a commercial insurer. DHHS may terminate this contract immediately if the Contractor does not provide such notification.
- 2.8 **Proof of Coverage.** The Contractor shall obtain certificates of insurance and additional insured endorsements that show the required coverage is in effect and that the insurer will notify DHHS within 30 days of any modification, cancellation, or non-renewal of the policy. The certificates of insurance must list Utah Department of Health and Human Services, dhscontracts@utah.gov in the certificate holder box. The Contractor shall ensure these documents and any notices of cancellation are promptly sent to DHHS at: dhscontracts@utah.gov. The Contractor shall provide a copy of the Contractor's full insurance policy upon

request. DHHS's receipt of any certificates of insurance, policy endorsements, or policies that do not comply with this contract will not waive or otherwise affect the requirements of this contract. The Contractor shall provide DHHS with proof that the Contractor has the insurance coverage required by this contract annually and upon request.

- 2.9 **Insurance Required of Subcontractors.** The Contractor shall ensure that any Subcontractors maintain reasonable levels of insurance.
- 2.10 **Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless DHHS and the state of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of the Contractor's performance of this contract caused by any intentional act or negligence of the Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of DHHS. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
- 2.11 **Intellectual Property Indemnification.** The Contractor shall indemnify and hold DHHS and the state of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against DHHS or the state of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
- 2.12 **No Subrogation or Contribution:** The Contractor has no right of subrogation or contribution from the state of Utah or DHHS for any judgment rendered against the Contractor.
- 2.13 **Defense of Suits Brought Upon Claims:** The Contractor shall defend all suits brought upon claims and shall pay all expenses. DHHS may participate in the defense of any suit in which DHHS deems that its interests are not adequately protected by the Contractor or where the Contractor believes, asserts, or claims that the claim arises out of the sole negligence of DHHS. If the Contractor believes, asserts, or claims that a claim arises out of the sole negligence of DHHS, the Contractor shall notify DHHS no later than 90 days after receiving notice of the claim. If the Contractor does not notify DHHS within this timeframe, the Contractor shall defend and indemnify DHHS, even if the claim arises out of the sole negligence of DHHS. The participation by DHHS in the defense of a claim does not relieve the Contractor of any obligation under this contract. However, if DHHS elects to retain independent counsel, DHHS shall pay the legal fees and costs of that counsel except where DHHS retains independent counsel due to a claim by the Contractor that the claim arises out of the sole negligence of DHHS. If a finding is later made that the claim did not arise out of the sole negligence of DHHS, the Contractor shall reimburse DHHS for all costs, including legal fees, incurred by DHHS.

Article 3: Client Related Requirements

- 3.1 **Client Placements.** DHHS makes no guarantee that it will place or maintain any clients with the Contractor, that it will refer any clients to the Contractor, or that any clients will select the Contractor to provide services. DHHS may place or refer clients based on DHHS's determination of client need.
- 3.2 **Human Subjects Research.** The Contractor shall not conduct research involving human subjects or their private data unless the Contractor obtains prior written approval from the DHHS Institutional Review Board ("IRB")

and from any other federal or state agencies whose approval is required for research on human subjects. The Contractor shall fully comply with any requirements imposed by the IRB.

- 3.3 **Grievance Procedures.** The Contractor shall establish a grievance system for clients and applicants for services. The Contractor shall notify each client and applicant in writing of their right to file grievances with the Contractor including: 1) denial of services; 2) exclusion from a program; or 3) inadequacies or inequities in the programs and services provided. The Contractor shall establish and maintain a tracking system identifying the nature and outcome of each grievance. If the Contractor denies a grievance or does not respond to a grievance in a timely fashion, the Contractor shall notify the client or applicant that they may contact DHHS in writing. DHHS will attempt to resolve the grievance.
- 3.4 **Client Centered Objectives.** The Contractor shall include in any client treatment plans individualized treatment objectives that address the assessed needs of the client. Treatment plans must prescribe an integrated program of therapies, activities, and experiences to meet the client's treatment objectives, and include reasonable measures to evaluate how the Contractor meets the treatment objectives.
- 3.5 **Customer Satisfaction Surveys.** DHHS may conduct customer satisfaction surveys to ensure that services are appropriate for the clients served. The Contractor shall cooperate with all DHHS initiated feedback activities and shall require its Subcontractors to do the same.
- 3.6 **Emergency Management and Business Continuity Plan.** The Contractor shall identify the critical functions of its business operations and develop an emergency management and business continuity plan that will allow the Contractor to continue to operate during short-term or long-term emergencies, periods of declared pandemic, or other disruptions of normal business. The plan must address at least the following areas: evacuation procedures; temporary or alternate living plans; plans for isolation or quarantine; maintenance, inspection, and replenishment of vital supplies (including food, water, clothing, first aid supplies, medical necessities, client medications, infection control supplies, and hazardous material protections); communications with Contractor staff, governmental agencies, and clients' families; transportation; recovery and maintenance of client records; and policies and procedures that: 1) ensure maintenance of required staffing ratios; 2) address both leave for, and the recall of, Contractor's employees unable to work for extended periods due to illness during periods of declared pandemic; and 3) ensure the timely discharge of the Contractor's financial obligations, including payroll. The Contractor shall provide at least annual training for its staff on its plan. The Contractor shall provide DHHS with a copy of its plan upon request from DHHS. The Contractor shall evaluate its plan at least annually. The Contractor shall provide DHHS with any modifications to the plan no later than 15 days after the time the modifications are made.
- 3.7 **Client Fatality Notification and Review.** Upon discovery of the death of a client, the Contractor shall immediately notify DHHS, comply with the DHHS fatality review process, and furnish any information or documents requested by DHHS.

Article 4: Performance Measurement and Monitoring

- 4.1 **Monitoring and Visits.** DHHS may monitor the Contractor's performance including through scheduled and unannounced visits.
- 4.2 **Performance Based Outcome Measures.** The Contractor shall collaborate with DHHS and, if referred, the University of Utah to assess how closely its programs meet principles of effective interventions based on empirically-derived principles.

- 4.3 **Internal Quality Management.** The Contractor shall develop, implement, and maintain an internal quality management system that evaluates the Contractor's programs and establishes a system of self-correcting feedback that may be externally validated by DHHS.

Article 5: Payment Terms and Billing Information

- 5.1 **Payment.** Payments made to the Contractor will be the Contractor's total compensation for contract services provided. With the exception of guaranteed payment amounts and budget-based contracts, DHHS shall pay the Contractor only if clients are placed with, are referred to, or select the Contractor for services, and only if the Contractor provides contract services to clients.

- 5.2 **Billing for Contract Services.** To obtain payment, the Contractor shall submit to DHHS the billing form stated below for its authorized services:

Rate-Based Contracts. The Contractor shall use the DHHS 520 Billing Form, or other billing form provided by DHHS, except when billing for services provided to Division of Child and Family Services non-custody clients which must be billed on the Cost of Service Billing Form. The Contractor shall bill DHHS only for units of service delivered, and shall maintain records that adequately support the delivery of the services.

5.3 **Payment for Residential Care Services.**

- a. **Client Absences.** If the Scope of Work states that the Contractor may receive payment for client absences from a residential placement, the Contractor shall include in the client records the reason for the client's absence, the client's whereabouts during the absence, and any other appropriate information. In addition, if the Scope of Work requires the Contractor to obtain written approval from DHHS to obtain payment for a client's absence, the Contractor shall include a copy of the approval in the client's file. Payment for client absences from a residential placement is prohibited in the following situations: 1) the client has left the Contractor's residential program and there is no plan to return the client to the Contractor's residential program and, therefore, no need to hold the slot; or 2) the standard rate already includes a factor for absences.
- b. **Billing for First and Last Days.** DHHS shall reimburse the Contractor for both the first and last days of service for clients in residential care. The level of compensation for the first and last days of service is stated in the Rate Table.

- 5.4 **Billing Periods and Deadlines.** DHHS may delay or deny payment to the Contractor for billings or claims for services that do not meet the billing deadlines outlined below.

- a. **Contractor Billing Period.** The Contractor's billing period is Monthly
- b. **Ongoing Billings.** The Contractor shall submit all billings and claims for services rendered during a given billing period no later than 20 days after the last day of that billing period, except that the Contractor shall submit all billings for services performed on or before June 30th of a given fiscal year pursuant to paragraph c. below.

- c. **State Fiscal Year-End Billings.** The State Fiscal Year is from July 1st through June 30th. The Contractor shall submit all billings for services performed on or before June 30th of a given fiscal year no later than July 14th of the following fiscal year, regardless of the Contractor's billing period or the contract termination date.
- d. **Final Contract Billings.** The Contractor shall submit all final billings no later than 14 days after this contract terminates, regardless of the Contractor's billing period.
- 5.5 **Most Favored Nation.** The Contractor guarantees that the amounts it charges for services will not be higher than the amounts the Contractor charges others for comparable services.
- 5.6 **No Imposition of Fees.** The Contractor shall not charge clients for any services except as expressly authorized in the Scope of Work.
- 5.7 **Supporting Documentation.** The Contractor shall maintain documentation necessary to support the costs billed by the Contractor and shall submit the documentation with the billings, if requested. The Contractor shall store and file required documentation in a systematic and consistent manner.
- 5.8 **Questioned Costs.** DHHS may question any billing by the Contractor if the billing is not supported by proper documentation.
- 5.9 **Availability of Non-Party Resources.** In addition to funds received from DHHS, other sources of funding may be available to the Contractor including Medicaid, private insurance, or other state, federal, and county programs. All funding sources other than DHHS are "**Non-Party Resources**".
- 5.10 **Non-Party Resources Requirements.** Where Non-Party Resources are available: 1) the Contractor shall not obtain duplicate recovery from DHHS and Non-Party Resources for services delivered; 2) except as stated below, the Contractor shall seek payment from Non-Party Resources for services delivered; 3) upon successful recovery of funds from Non-Party Resources, the Contractor shall reimburse DHHS for the full amount of the recovery; and 4) If the amount of the recovery is greater than the amount that the Contractor received from DHHS, the Contractor shall reimburse DHHS for the amount received from DHHS.
- 5.11 **Medicaid Enhancement and Home and Community-Based Services.** If DHHS bills Medicaid for the Contractor, the Contractor shall not seek reimbursement from Medicaid if the client is eligible for Medicaid Enhancement or for Home and Community-Based Services. Instead, DHHS shall pay the Contractor for services delivered, DHHS shall bill the Non-Party Resources, and the DHHS Office of Recovery Services or Medicaid will pursue reimbursement for amounts that DHHS paid to Contractor.**Non-Appropriation or Reduction of Funds.** If funding for this contract is eliminated or reduced, or if federal funding requires any return of funds required for the State to continue payments, DHHS may terminate this contract or proportionately reduce the services and payments.
- 5.12 **Federal and State Reporting Requirements:** The Contractor shall comply with all federal and state laws, rules, and requirements regarding financial reporting as stated in the Uniform Guidance (2 CFR §200 *et seq*) and Utah Code § 51-2a 201.
- 5.13 **DHHS Reporting Requirements:** The Contractor shall comply with all financial reporting requirements as stated in Table 2 below. If the Contractor needs an extension to submit required reports to DHHS, the Contractor may submit a request to DHHSfinancialreports@utah.gov. Requests for extensions must include the following information: the requested length of extension; justification for the requested extension; and the name, phone number, and email address of the person requesting the extension.
- 5.14 **Cost Information:** DHHS may require the Contractor to submit cost information to DHHS for use in setting

rates, establishing budgets, or designing or evaluating services.

Table 1: Summary of Federal and State Annual Financial Reporting Requirements

Federal Reporting Requirements <i>Per 2 CFR Part 200 (OMB Uniform Guidance)</i>	Utah State Reporting Requirements <i>Per Utah Code § 51-2a-201</i>	Utah State Reporting Requirements <i>Per Utah Code § 51-2a-201.5</i>
<u>TYPE OF ENTITY</u> Non-Federal Entities <u>TYPE OF FINANCIAL REPORT REQUIRED</u> 1. If \$750,000 or more in federal awards is expended, a <i>Single or Program Specific Audit</i> using GAGAS standards and prepared under the requirements of OMB Uniform Guidance is required, including: a. The <u>data collection form</u> described in § 200.512. b. The <u>Reporting Package</u> described in § 200.512 including: (1) <u>Financial statements</u> and schedule of expenditures of federal awards; (2) A <u>summary schedule of prior audit findings</u>; (3) Any <u>auditor's report</u>; and (4) A <u>corrective action plan</u> for any current year audit findings. c. Any <u>Management Letter</u> issued by the auditor. 2. If less than \$750,000 in federal awards is expended, no audit is required, <i>except as noted in § 200.503</i>, but records must be available for review or audit.	<u>TYPE OF ENTITY</u> Government Entities, School Districts, and Charter Schools <u>TYPE OF FINANCIAL REPORT REQUIRED</u> The reporting requirements for entities in this category may be found on the Utah State Auditor's website at: auditor.utah.gov Reporting requirements depend on the entity's total annual revenues or expenditures, which are tiered as follows: 1. Revenues or expenditures are \$1,000,000 or more (audit). 2. Revenues or expenditures are less than \$1,000,000 as prescribed by the State Auditor.	<u>TYPE OF ENTITY</u> Non-Profit Corporations with Revenues or Expenditures of MORE than \$25,000 in Federal Pass Through, State, or Local Funds as Defined in § 51-2a-201.5 <u>TYPE OF FINANCIAL REPORT REQUIRED</u> The reporting requirements for entities in this category may be found on the Utah State Auditor's website at: auditor.utah.gov Reporting requirements depend on the entity's total annual revenues or expenditures, which are tiered as follows: 1. Revenues or expenditures are \$1,000,000 or more (audit). 2. Revenues or expenditures are less than \$1,000,000 but at least \$350,000 (review). 3. Revenues or expenditures are less than \$350,000 but at least \$100,000 (compilation). 4. Revenues or expenditures are less than \$100,000 but greater than \$25,000 (fiscal report).
SUBMISSION REQUIREMENTS		
Reports must be submitted to the Federal Audit Clearinghouse no later than 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period, whichever is earlier.	Government Entities: Reports must be submitted to the State Auditor no later than 180 days after the Contractor's fiscal year end. School Districts and Charter Schools: Reports must be submitted to the Office of Education by November 30th and to the State Auditor by December 31st.	Reports must be submitted to the State Auditor no later than six months after the Contractor's fiscal year end. Disclaimer: The information provided in this Table is summary information only and may be out of date. The Contractor is advised to seek professional advice to determine whether it is subject to these reporting requirements.

Table 2: Annual Financial Reporting Requirements to DHHS

TYPE OF ENTITY				
Entities with a Federal Reporting Obligation Under the OMB Uniform Guidance	Government Entities with a Utah State Reporting Obligation Under Utah Code § 51-2a-201	Nonprofit Corporations Subject to Utah Code § 51-2a-201.5	All Entities Receiving Pass Through Money as Defined in Utah Code § 63J-1-220	All Entities that DO NOT have a Federal or State Reporting Obligation Under Table 1 Requirements shall submit to DHHS the required report indicated below:
No additional reporting obligation for DHHS	No additional reporting obligation for DHHS	Shall Annually Disclose to DHHS: - Whether the nonprofit met or exceeded the dollar amounts listed in § 51-2a-201.5(2) in the previous fiscal year of the nonprofit; and - Whether the nonprofit anticipates meeting or exceeding the dollar amounts listed in § 51-2a-201.5(2) in the fiscal year the money is disbursed.	Shall Annually Provide to DHHS: - A written description and an itemized report detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and - A final written itemized report when all the state money is spent.	If \$1,000,000 or MORE is received from DHHS in the Contractor's fiscal year: A CPA Audit performed in accordance with GAGAS. The auditor's Management Letter must be included if the audit report disclosed any audit findings. If LESS THAN \$1,000,000 but at least \$750,000 or MORE is received from DHHS in the Contractor's fiscal year: A CPA Review. If LESS THAN \$750,000 but at least \$500,000 or MORE is received from DHHS during the Contractor's fiscal year: A CPA Compilation. If LESS THAN \$500,000 but at least \$250,000 or MORE is received from DHHS during the Contractor's fiscal year: Financial statements prepared by the Contractor or by an outside accounting or bookkeeping service. If LESS THAN \$250,000 is received from DHHS during the Contractor's fiscal year: No report is required.
SUBMISSION REQUIREMENTS				
See Table 1	See Table 1	Disclosure must be made to the DHHS contract representative for this contract when entering into this contract and annually thereafter no later than six (6) months after the end of Contractor's fiscal year.	Reports must be submitted to the DHHS contract representative for this contract no later than July 31st each year or no later than 30 days after the expenditure of all state funds, whichever is earlier.	Reports must be submitted no later than six (6) months after the end of Contractor's fiscal year to: DHHSfinancialreports@utah.gov

Article 6: Applicable Laws and Requirements

- 6.1 **Compliance with Law and Other Standards.** The Contractor shall comply with all laws, regulations, ordinances, and licensing standards.
- 6.2 **Background Screening Requirements.** The Contractor and any individuals associated with the Contractor shall comply with the background screening requirements in Utah Code §62A-2-120 and Utah Administrative Code R501-14.
- 6.3 **Utah 211 Information Requests.** The Contractor shall provide Utah 211 with information about the Contractor's services in a form determined by Utah 211.
- 6.4 **Registration and Use of Employment Status Verification System.** The Status Verification System, also referred to as "E-verify," only applies to contracts issued through a request for proposals process, and to sole sources included within a request for proposals. The Contractor certifies under penalty of perjury to its own entity that it has registered and is participating in the Status Verification System to verify the work eligibility status of the Contractor's new employees that are employed in the State of Utah in accordance with immigration laws, including Utah Code § 63G-12-302.
- 6.5 **Subcontractor E-verify Requirements.** The Contractor shall require that each of its Subcontractors certify by affidavit under penalty of perjury that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
- 6.6 **Provider Code of Conduct.** The Contractor shall follow and enforce the DHHS Provider Code of Conduct. Before allowing any employee or volunteer to work with clients, the Contractor shall: 1) provide a current copy of the DHHS Provider Code of Conduct to each employee or volunteer currently working for the Contractor and to new employees or volunteers; and 2) retain in each employee's or volunteer's file a signed and dated statement in which that person certifies that he or she has read, understands, and will comply with the DHHS Provider Code of Conduct. Annually, the Contractor shall obtain the current DHHS Provider Code of Conduct poster and display the poster where its employees and volunteers can see it.
- 6.7 **Anti-Boycott Israel Act.** If this contract has a total value of \$100,000 or more, and if the Contractor has ten or more employees, the Contractor certifies that it is not currently engaged in a boycott of the State of Israel and that it will not engage in a boycott of the State of Israel for the duration of the contract. For purposes of this term, "Contractor" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Contractor.
- 6.8 **Other Laws and Requirements.** The Contractor shall comply with all anti-discrimination and drug-free workplace laws, and all laws governing research involving human subjects. **6.11** The Contractor shall comply with all applicable laws, regulations, and executive orders listed in the table below to the extent they apply to this contract. The laws in the table below are not an exhaustive list of all laws that may apply. The Contractor understands that it is obligated to seek independent legal advice.

Description of Act	Applicable Federal Law	Applicable State Law
Discrimination and Employment Related Laws		
Age Discrimination Act of 1975	42 U.S.C. §§ 6101-6107; 45 C.F.R. Part 91	
Americans with Disabilities Act	42 U.S.C. § 12101 <i>et seq.</i> ;	

	28 C.F.R. Part 35, Part 39	
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Description of Act	Applicable Federal Law	Applicable State Law
Civil Rights Act of 1964 as amended, Title VI	45 C.F.R. Part 80 42 U.S.C. § 2000d <i>et. seq.</i>	
Civil Rights Act of 1964, Title VII	42 U.S.C. § 2000e <i>et. seq.</i>	Utah Code § 13-7-1 <i>et seq.</i>
Contract Work Hours and Safety Standards Act	40 U.S.C. §§ 3701-3704; 29 C.F.R. Part 5	
Copeland Anti-Kickback Act	45C.F.R. 2543.82, 18 U.S.C. § 874, 29 C.F.R. Part 3	
Davis-Bacon Act	40 U.S.C. § 3142; 29 C.F.R. Part 5	
Drug-Free Workplace Requirements	41 U.S.C. § 701 through 707, Drug Free Workplace Act of 1988	Utah Code § 34-41-101 <i>et seq.</i> ; Utah Code § 34-38-1 <i>et seq.</i> ; Utah Code § 67-19-36 <i>et seq.</i> ; Utah Administrative Code, R477-14-1 <i>et seq.</i>
Education Amendments of 1972, Title IX	20 U.S.C. § 1681 <i>et. seq.</i> ; 45 C.F.R. Part 86	
Employment Eligibility Verification	8 U.S.C. § 1324a	Utah Code § 63G-12-302
Equal Employment Opportunity	Exec. Order No. 11246 (1965), as amended by Exec. Order No. 11375; 41 C.F.R. Part 60	
Equal Pay Act	29 U.S.C. § 206(d)	
Fair Labor Standards Act	29 U.S.C. § 201 <i>et seq.</i>	
Immigration Control and Reform Act	8 U.S.C. § 1324	
Protection and Advocacy for Individuals with Mental Illness Act	42 U.S.C. § 10801 <i>et seq.</i>	
Public Health Service Act, Section 522 and Section 526	45 C.F.R. Part 84.53	
Rehabilitation Act of 1973, as amended, Section 504	29 U.S.C. § 794; 45 C.F.R. Part 84	
Utah Antidiscrimination Act -- (Includes the prohibition of unlawful harassment)		Utah Code § 34A-5-101, <i>et seq.</i> (See also Utah Executive Order March 17, 1993, which prohibits sexual harassment of state employees and employees of public and higher education)
Utah Occupational Safety and Health Act		Utah Code § 34A-6-101, <i>et seq.</i>
Property Laws		
Energy Policy and Conservation Act	42 U.S.C. § 6322	
Federal Clean Air Act	42 U.S.C. § 7401 <i>et seq.</i>	Utah Code § 26-38-1, <i>et seq.</i>

Federal Water Pollution Control Act	33 U.S.C. § 1251 <i>et seq.</i>	
Flood Disaster Act of 1973 and other flood hazard provisions	42 U.S.C. § 4106	

Description of Act	Applicable Federal Law	Applicable State Law
National Environmental Policy Act of 1969 ("NEPA")	42 U.S.C. § 4321 <i>et seq.</i> ; 40 C.F.R. Part 1500 <i>et seq.</i>	
National Historic Preservation Act ("NHPA") of 1966	16 U.S.C. § 470, <i>et seq.</i> ; 36 C.F.R. Part 800, <i>et seq.</i>	
Pro-Children Act of 1994	20 U.S.C. § 6081, <i>et seq.</i>	
Medicaid and Utah False Claims Reporting Laws		
Civil False Claims Act	31 U.S.C. § 3729-3733 and Chapter 38	
Deficit Reduction Act of 2005	Public L. 109-171 (2006)	
Utah False Claims Act		Utah Code § 26-20-1 <i>et seq.</i>
Utah Protection of Public Employees Act		Utah Code § 67-21-1 <i>et. seq.</i>
Procurement Laws		
Utah Procurement Code		Utah Code § 63G-6a-101 <i>et seq.</i>
Utah State Procurement Rules		Utah Administrative Code, Rule R33-1, <i>et seq.</i>
Debarment and Suspension	45 C.F.R. Part 76; Exec. Order No. 12549; and Exec. Order 12689	Utah Code § 63G-6a-904
Miscellaneous Laws		
Abuse Reporting Requirements		Utah Code § 62A-4a-403; Utah Code § 62A-3-305
Byrd Anti-Lobbying Amendment	31 U.S.C. § 1352; 45 C.F.R. Part 93	
Ethics Acts		Utah Code § 67-16-1 <i>et. seq.</i> and § 10-3-1301 <i>et. seq.</i>
Federal Funding and Accountability and Transparency Act (FFATA)	P.L. 109-282, as amended by Section 6202 of P.L. 110-252. Guidance issued by the Office of Management and Budget may be found in the Federal Register (Volume 75, No. 177, September 14, 2010, 2 CFR Part 170) that establishes reporting requirements.	
Government Records Access and Management Act (GRAMA),		Utah Code § 63G-2-101 <i>et. seq.</i>
Hatch Act	5 U.S.C. § 1501, <i>et. seq.</i>	Utah Code § 67-19-19
Health Insurance Portability and Accountability Act of 1996 (HIPAA)	45 C.F.R. Parts 160, 162, and 164	
Misusing Public Money or Public Property		Utah Code § 76-8-402; see also Utah Code § 76-1-601(14)(a)(ii)
Public Health Service Act, Section 474(a), Protection of Human Subjects	42 U.S.C. § 2899; 45 C.F.R. Part 46; 21 C.F.R. 50 & 21 C.F.R. 56	

Description of Act	Applicable Federal Law	Applicable State Law
Substance Abuse and Mental Health confidentiality of substance abuse and mental health records	42. U.S.C. § 290dd-2; 42 C.F.R. § 2 and 2a	
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards	45 C.F.R. Part 75	
Utah Human Services Code		Utah Code Title 62A
Utah Referral Information Network		Utah Code § 62A-17-101 <i>et. seq.</i>

Article 7: Records and Recordkeeping Requirements

- 7.1 **Records Access:** The Contractor shall provide DHHS with access to all records relating to this contract and shall not limit or interfere with DHHS' access rights. The Contractor shall allow independent auditors, state and federal auditors, and contract reviewers to have access to any records related to this contract including all personnel, training, client, treatment, accounting, and financial records.
- 7.2 **Record-Keeping and Reporting Requirements:** The Contractor shall maintain or supervise the maintenance of all records necessary for the proper and efficient operation of its programs including, as applicable, records relating to screenings, assessments, applications, determination of clients' eligibility, the provision of services, treatment, administrative costs, statistics, fiscal operations, and any other records necessary for complying with the reporting and accountability requirements of this contract.
- 7.3 **Client Records Retention:** The Contractor shall retain all adult client records (including records that support Title XIX reimbursements) for at least six years from the day of last service to the adult client. The Contractor shall retain all records relating to clients under 18 years old (including records that support Title XIX reimbursements) for at least six years from the day of last service to the child client, or until the child client reaches the age of 22, whichever period is longest.
- 7.4 **Administrative Records Retention.** The Contractor shall retain all administrative records relating to this contract (including records that support Title XIX reimbursements) for at least six years after DHHS makes the last payment on this contract.
- 7.5 **Discontinued Operations:** If the Contractor discontinues its programs or ceases to provide services, the Contractor shall protect DHHS access rights by implementing one of the following options: 1) transfer the client records to a successor agency or entity that has entered into a contract with DHHS to provide the services formerly provided by the Contractor; 2) deliver the client records to an office within the Contractor's organization and provide DHHS with continuing immediate access to the records; 3) with the prior written consent of DHHS which may be withheld for any reason, deliver the client records to DHHS; or 4) if the Contractor is bound by the requirements of 42 C.F.R. Part 2 and ceases to provide its services, the Contractor shall comply with the following requirements before destroying records: (a) the Contractor shall notify DHHS in writing at least 30 days before it ceases to provide its services; (b) upon request from DHHS, the Contractor shall give each of its patients a consent form that meets the requirements of 42 C.F.R. § 2.31 and that authorizes the Contractor to transfer its patient records to DHHS; and (c) upon obtaining signed consent forms from patients, the Contractor shall deliver the consenting patients' records to DHHS.

- 7.6 **Audits and Litigation:** The Contractor shall maintain all records related to any audits initiated by federal or state auditors or to any pending litigation until six years after all audits are completed or litigation is resolved, including any related appeals or the time for appeal has expired, or for six years from the day this contract terminates, whichever is longer.
- 7.7 **Method for Destruction of Client Records:** If destroying a client record, the Contractor shall cross-shred or burn the record to protect client confidentiality. For electronic records, the Contractor shall destroy the records in a manner that prevents unauthorized persons from reading or accessing the records.
- 7.8 **Client Record Confidentiality:** The Contractor shall keep client records confidential and shall restrict access to client records in accordance with state and federal laws. Client records include, but are not limited to, hard copy records, electronic data, audio and video tapes, digital files, photographs, scans, and other images. The Contractor shall maintain all client records in locked rooms or cases or in password-protected electronic files. The Contractor shall password-protect any records that are transported or contained in any electronic medium. The Contractor shall not use or disclose any client information except as provided by this contract or required by law. The Contractor shall restrict access to records for its representatives to those portions of the records directly related to their work.
- 7.9 **Loss or Disclosure of Client Records:** The Contractor shall have and comply with policies and procedures to protect confidential client records and information from loss, unauthorized disclosure, and data breaches (collectively “**Loss**”), and shall make those policies available to DHHS. The Contractor shall address in its policies and procedures how client records and information will be maintained, transmitted, stored, and secured to protect against any Loss. The Contractor shall address in its policies and procedures the steps that will be taken in the event of any Loss to notify, protect, and reimburse those impacted by the Loss against potential damages, as well as to prevent future losses. The Contractor shall be responsible for any Loss of client records or client information by it or its representatives and for any and all costs, remediation (including, credit monitoring), and damages associated with the Loss. In the event of a Loss, the Contractor shall notify the following of the Loss no later than 24 hours after it is discovered: 1) the DHHS Deputy Director over Operations; 2) the DHHS Privacy and Security Director; and 3) the client or the client’s parents or legal guardian.
- 7.10 7.11 7.12 7.13 7.14 7.15

Each party is signing this contract on the date stated below that party's signature. This contract is not fully executed until the State of Utah approving authorities have signed this contract.

[INSERT CONTRACTOR NAME]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

By: _____	By: _____	Name: _____
Date	Tracy S. Gruber	Date
Title:	Executive Director	

STATE OF UTAH APPROVING AUTHORITIES

DHHS OFFICE OF PROCUREMENT & CONTRACT MANAGEMENT	STATE DIVISION OF FINANCE
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By: _____	By: _____
Spencer Hall, LPD099 Director	State Finance
Date	Date

Log # _____	Contract # _____	DHHS Procurement # 91021
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The State of Utah Department of Health and Human Services is an Equal Opportunity Employer. The department's EEOP Utilization Report is available at hs.utah.gov/about.
