



Government of the District of Columbia

REQUEST FOR QUALIFICATION (RFQ)						PAGE OF 1 70 PAGES	
1. RFQ NUMBER			2. REQUISITION/PURCHASE REQUEST NO.		3. DATE OF AWARD		
4. ISSUED BY Office of Contracting and Procurement (OCP) 441 4 th Street, N.W. Suite 300 South Washington, DC 20003 Contact: Yvonne Howerton Phone: 202-724-4946 Email: Yvonne.Howerton@dc.gov			5. ADMINISTERED BY (If other than Item No. 4): TBD				
6. NAME AND ADDRESS OF PROVIDER (No. street, county, state and ZIP Code)							
7. PROVIDER/PROVIDER SHALL SUBMIT ALL INVOICES TO: TBD				8. DISTRICT SHALL SEND ALL PAYMENTS TO:			
9. DESCRIPTION OF HUMAN CARE SERVICE AND RATE COST							
ITEM/LINE NO.	NIGP CODE	BRIEF DESCRIPTION OF HUMAN CARE SERVICE	QUANTITY OF SERVICE REQUIRED	TOTAL SERVICE UNITS	SERVICE RATE	TOTAL AMOUNT	
CLINS							
				GRAND TOTAL (BASE PERIOD):			
10. APPROPRIATION DATA AND FINANCIAL CERTIFICATION							
11. PERIOD OF HUMAN CARE AGREEMENT							
Starting Date:							
HUMAN CARE AGREEMENT SIGNATURES							
Pursuant to the authority provided in D.C. Law 13-155, this HUMAN CARE AGREEMENT is being entered into between the Provider/Provider specified in Item No. 6 of this document. The Provider/Provider is required to sign and return two (2) originals of this document to the Human Care Agreement Officer of the Issuing Office stated in Item No. 18 of page 1 of this document. The Provider further agrees to furnish and deliver all items or perform all the services set forth or otherwise identified within this Human Care Agreement and on any continuation sheets or appendices for the consideration stated above, and as ordered under task orders issued pursuant to this Agreement. The rights and obligations of the parties to this Human Care Agreement shall be subject to and governed by the following documents: (a) this Human Care Agreement; (b) OCP Standard Contract Provision dated July 2010 ; (c) Any other provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. This Human Care Agreement between the signatories to this document consummates the final agreement of the parties.							
12. FOR THE PROVIDER/PROVIDER The responses to this solicitation shall be valid for 180 days				13. FOR THE DISTRICT OF COLUMBIA			
A. Name and Title of Signer (Type) Name: Title:				A. Name of Human Care Agreement Officer (Type) Yvonne Howerton			
B. Signature of PROVIDER/PROVIDER, or representative:		C. Date:		B. Signature of Contracting Officer:		C. Date:	

**SECTION B:
HUMAN CARE AGREEMENT TYPE, SUPPLIES OR SERVICES AND PRICE/COST**

B.1 The District of Columbia's Office of Contracting and Procurement (OCP), on behalf of the Office of Neighborhood Safety and Engagement (ONSE) is seeking a Contractor to provide violence intervention services and support in Wards 1-8 of the District of Columbia. The goal of the ONSE Violence Intervention Initiative is to reduce the instances and likelihood of highest risk individuals in highest risk communities being involved in gun violence. The aim of the Violence Intervention Initiative is to increase public safety, increase community cohesion, develop protocols and strategies to combat gun violence and connect the most valuable partners in collective anti-gun violence efforts and outcomes.

B.1.1 Pathways Transformative Mentoring,

B.2 The District contemplates award of multiple Human Care Agreements (HCA) to qualified Providers resulting from this Request for Qualifications (RFQ).

B.3 Pursuant to the Human Care Agreement Amendment Act of 2000. (D.C. Law 13-155, amending D.C. Official Code, Sections, 2-301.07, 2-303.02, 2-303.04(g), 2-303.06(a).

B.4 The Human Care Agreement is not a commitment to purchase any quantity of a particular service covered under the agreement. The District is obligated only to the extent that authorized purchases are made pursuant to the Human Care Agreement by written authorization(s).

B.5 The Provider shall not provide any services under this agreement until a purchase order with sufficient funding to cover the cost of the requested services has been issued.

B.6 Delivery or performance shall be made only as authorized by Task Orders issued. The Provider shall furnish to the District Government, when and if Ordered, the services specified in Schedule B.

B.7 There is no limit on the number of Task Orders that may be issued. The District Government may issue Task Orders requiring delivery to multiple destinations or performance at multiple locations, as specified in such Task Orders as may be issued.

B.8 This Human Care Agreement is based on fixed-unit rates.

B.9 The Offeror shall deliver services in accordance with the description of services.

B.8**CONTRACTS IN EXCESS OF ONE MILLION DOLLARS**

- a) Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.
- b) The Provider shall notify the CO, in writing; whenever it has reason to believe that the total cost for the performance of the HCA will be greater than \$1 Million.

*****END OF SECTION B*****

DRAFT

SECTION C: DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE

C.1.1 The District of Columbia Office of Contracting and Procurement (OCP), on behalf of the Office of Neighborhood Safety and Engagement (ONSE) is seeking a Contractor to provide Transformative Mentoring services for the ONSE Pathways Program.

The ONSE aims to provide Transformative Mentoring services to our Pathways participants. Pathways Program is an initiative of ONSE that allows the office to identify, recruit and engage individuals and families determined to be at high risk of participating in or being a victim of violent crime. Once identified, the ONSE works relentlessly to engage them in programs that provide immediate wrap-around services that include Transformative Mentoring one-on-one and group mentoring, use of cognitive behavior therapy techniques, family engagement, support groups, restorative justice, healing circles, and other program practices.

Transformative Mentor must have the ability to move fluently in communities and engage Senior Ambassadors to attach to program goals. Transformative Mentoring will serve up to 4 cohort of 25 people each cohort.

Success will be determined by utilizing the following measurements:

- Decreased Recidivism rates: Number of Ambassadors who committed re-offenses
- Increased employment: Number of Ambassadors who have been promoted from the life skills and workforce development phase and have transitioned into subsidized employment and/or unsubsidized employment
- Maintaining employment: Number of Ambassadors who have maintained subsidized employment for at least 6 months
- IDP Goal Attainment: Number of Ambassadors who have attained goals outlined in their individual development plan

C.2 APPLICABLE DOCUMENTS

The following documents are applicable to this procurement and are hereby incorporated by reference:

Item No.	Document Type	Title	Date
One	Legislation	NEAR Act	February 2, 2016

C.3 DEFINITIONS:

These terms when used in this RFQ have the following meanings:

1. **Transformative Mentor:** Individual who provides mentoring services to program participants
2. **Case Manager (Path Maker):** ONSE Staff who provides case management services to program participants
3. **Ambassador:** Pathways program participant
4. **ETO:** Efforts to Outcomes data system used by ONSE for Pathways documentation and data entry
5. **Individual Development Plan (IDP):** Plans that outline goals, steps and outcomes for ambassadors
6. **Key Personnel/Staff** should include all staff costs associated with performing this HCA. These costs should be inclusive of fringe benefits, and any other cost associated with the

employee. The cost identified should equal the percentage of time the staff member is dedicated to supporting the Violence Intervention HCA. The narrative must assure you are identifying all positions needed to successfully execute the program. You must also make a declarative statement in your proposal narrative confirming this is all personnel needed to administer this HCA at the time of award, for the services as described in the RFQ.

7. **On-boarding costs:** all cost involved in helping a new hire successfully transition into your organization (i.e: **background check costs, identification costs, training, screening and vetting costs etc.**)
8. **Administrative costs:** are costs incurred to support the functioning of a business, but which are not directly related to the production of a specific product or service (i.e: **cell phones and other technology, rental costs, mileage costs, etc.**)

C.4 BACKGROUND

The mission of ONSE is to foster a community-oriented model to violence prevention and public safety by employing a strategy rooted in public health and recognizing that crime reduction is not accomplished through law enforcement alone. The ONSE Pathways Program seeks to serve individuals, ages 20-35, who have been determined to be at high risk of participating in or being victims of violent crimes, and who are in need of immediate wrap-around services including case management and Transformative Mentoring, mental or behavioral health counseling, and connections to education and employment opportunities.

The mission of the DC Office of Neighborhood Safety and Engagement (ONSE) is to build a community-oriented model for violence prevention and public safety. The ONSE employs a strategy rooted in public health, recognizing that crime reduction is not accomplished through law enforcement alone. The ONSE programs consolidate violence prevention efforts across agencies in an effort to create a comprehensive violence prevention strategy throughout the District.

In addition to serving as coordinator for citywide prevention efforts, the ONSE is responsible for playing an “on the ground” role in deterring violent activity in local communities, while serving individuals and families affected by violence. This work is accomplished primarily through four (4) initiatives - Safer Stronger DC, the Community Stabilization Program, Pathways, and Violence Intervention.

The Pathways Program: an initiative of the ONSE that allows the office to identify, recruit and engage individuals and families determined to be at high risk of participating in or being a victim of violent crime. Once identified, the ONSE works relentlessly to engage them in programs that provide immediate wrap-around services, mental or behavioral health counseling, and connections to education and employment opportunities.

C.5 REQUIREMENTS:

Applicants who are interested in providing services must be able to meet the following qualifications:

1. Serve up to four (4) cohorts of approximately 25 high-risk individuals and their families participating in the ONSE Pathways Program during the term of this contract; provided that individuals and their families shall be served at any given point in time during the term of this Contract.

2. Include ONSE in the interview, selection and hiring process of the Program Coordinator.
3. Inform ONSE about Transformative Mentoring staff changes within 24 hours.
4. Ensure background clearances for Transformative Mentoring provider staff and anyone who will engage with ONSE Pathways Program participants and their families.
5. Ensure that the Transformative Mentoring staff consistently:
 - a) Build relationships with participants and their support teams
 - b) Adhere to a staffing schedule that provides for regular engagement with Pathways participants during Pathways Program training hours Monday – Friday from 9am to 5pm, weekends, holidays and virtual instruction as needed
 - c) Identify and stay abreast of external and community pressures that may deter participants' success and relay those issues to participants' team members
 - d) Remind participants about appointments, encourage follow through with services and supports, and help with transportation, if necessary
 - e) Support daily involvement of participants in the workforce development component of the ONSE Pathways Program
 - f) Engage with participants to discuss any issues they have concerning their involvement with the ONSE Pathways Program
 - g) Participate in meetings about participants' progress including, but not limited to daily incident teleconferences, case review meetings, goal meetings and family team meetings, hearings and legal proceedings
 - h) Provide detailed information about evening and weekend engagement and critical incidents during the daily incident teleconference
 - i) Support the mediation of conflict that could derail participants' success
 - j) Work to increase the engage participants with inconsistent attendance
 - k) Consistently engage participants in recreational, educational, and cultural activities that provide new and positive experiences
 - l) Hold age-appropriate groups with participants utilizing the Transformative Mentoring curriculum; and
 - m) Facilitate one-on-one activities and conversations to help participants process personal thoughts and feelings and challenge toxic beliefs and values
 - n) Provide supports and resources to families of Pathways participants and engage ambassadors in educational and recreational activities
6. Provide continuous professional development and joint cross training to Transformative Mentoring and Pathways staff members including, but not limited to, skill and field-based training, personal growth and inner healing, and integrating cognitive behavioral therapy techniques during interactions with participants and families; and coordinate with ONSE to ensure that violence prevention and other Pathways Program specific trainings are included.
7. Provide day-to-day program management of the Transformative Mentoring staff.
8. Develop strategies to monitor staff for quality programming and adherence to existing Transformative Mentoring standard operating procedures.

9. Adhere to ONSE standard operating procedures that speak specifically to serving ONSE Pathways Program participants and their families.
10. Ensure timely submission of invoices and financial documentation.
11. Submit spend plans on the 10th day of the first month of every quarter (October, January, April, July)
12. Facilitate monthly meetings to review adherence to the agreed upon spending plan

C.6 Contract Staff Structure

The Contractor shall dedicate the following staff to the Pathways Transformative Mentoring Program:

Program Manager: One (1) full-time (40 hour/week) position fully (100%) funded by and solely dedicated to the ONSE violence intervention contract; Responsible for overseeing the Transformative Mentoring team and collaborates with ONSE Pathways Program Manager to ensure program operations are adhered to. **KEY PERSONNEL**

Must have significant experience working with at-risk individuals affected by poverty, trauma, and violence and must have great knowledge of policies and protocols that govern violence interruption, case management, engagement and documentation. The Pathways Program Manager will be responsible for the management and administration of the program and the supervision of staff dedicated to the Pathways Program. The Manager will coordinate all program activities, staff trainings and professional development opportunities. In addition, he/she will ensure that the Contractor's internal policies and protocols are followed, including, but not limited to those that govern engagement of high risk individuals, the building of partnerships, the entrance of data and notes in the database system, and the disbursement of contractual funds. Finally, the Manager will be responsible for communicating with ONSE regarding program operations, assignment of workers, the management of critical incident responses, and the scheduling of triage meetings and hospital visits.

Transformative Mentor – Five (5) Full-time (40 hour/week) positions fully (100%) funded by and solely dedicated to the ONSE violence intervention contract; Transformative Mentoring will primarily be responsible for building positive relationships with Senior Ambassadors to identify and work towards acquisition of life goals. Additional responsibilities include partnering with the case management team to track goal attainment, link to supports/services, redirect behavior, attending and facilitating events and activities, engaging high risk individuals and families, referring clients to Case Managers for enrollment in supports and services, and entering notes and date in the designated data system. **KEY PERSONNEL**

Transformative Mentoring will also assist participants with other activities to include, but are not limited to: obtaining vital records, attending behavioral health appointments, attending educational or employment meetings, family team meetings, and ONSE service events. The Transformative Mentoring must have significant experience working with high-risk individuals and communities affected by poverty, trauma, and violence and must have great knowledge of policies and protocols that govern prevention, intervention and case management.

Transformative Mentoring must work 40 hours a week unless otherwise instructed. Hours must include evenings up to 11:00pm and weekend hours. In addition, staff must:

- Contractor must maintain 5 Transformative Mentoring positions at all times. In the event of termination or resignation, the contractor will notify ONSE within 24 hours of receiving notice from employee. The Contractor must fill any employee vacancies within 30 days of position opening.

Transformative Mentoring must work 40 hours a week unless otherwise instructed. Hours must include evenings up to 11:00pm and weekend hours. In addition, staff must be available to respond to crisis and critical incidents to provide intervention. **Administrative support:** Administrative support staff with twenty-five (50%) of full-time schedule dedicated to Violence intervention Initiative. Administrative support will provide oversight for data entry and fiscal management. Administrative support will be responsible for oversight management and submission of all financial documents and requirements for the contractor. Administrative support staff shall have at least 2 years of experience with budgeting, invoicing, spend down plans and fiscal administrative duties.

Administrative support will be responsible for tracking and reporting on critical goals, outcomes, and data related information for the contractor. Data support will assure that all documentation is accurately submitted into ONSE data system by all staff. Data support will collaborate with ONSE Data Analyst to review, debrief and develop strategies based on data. Data support must have at least 3 years' experience with data oversight, data systems and data management

C.7 Pathways Transformative Mentoring Vendor Responsibilities

C.7.1 Staff Training

The Contractor shall ensure mandatory trainings and other professional development opportunities to help staff consistently improve Transformative Mentoring services.

The Contractor shall provide ONSE with a calendar of training at the beginning of the year, as trainings are added or as requested by ONSE. Staff training should include but not be limited to: documentation, boundaries, field safety, confidentiality and mandated reporting.

C.7.2 Relationship Building

The Contractor shall be responsible for working directly with ambassadors to 1) challenge thoughts and feelings that lead to destructive behaviors and process alternative conflict resolution strategies, 2) identify personal goals, and 3) link to other supports and services needed to achieve stability and success.

C.7.3 Critical Incident Response

When alerted by Homeland Security and Emergency Management Agency of a critical incident, the Contractor shall respond at any point during a twenty-four hour period, seven days a week. A response includes, but is not limited to:

- a) going to the scene of the incident,
- b) identifying the victim and if possible the aggressor,
- c) attentively listening for precipitating factors that led to the incident and the possibility for retaliation or additional violence,
- d) and gauging the community's response to the incident.

- The Contractor shall send ONSE a critical incident summary for, within 24 hours of the incident; Incident form templates are provided by ONSE and should be submitted on the document ONSE has provided
- The Contractor shall have the ability to facilitate triage meetings within twenty-four hours of a critical incident and coordinating with ONSE internal program teams when appropriate to gather information, develop safety plans, identify resources or connect to services.
- The Contractor shall conduct hospital or home visits within twenty- four hours of the critical incident when an ambassador has been a victim of violence.

C.7.4 Case Management & Documentation

The Contractor shall be responsible for overseeing case management needs of ambassadors. The Contractor will work collaboratively with ONSE and the ambassador to develop an Individual Development Plan. ONSE is the lead entity for development and updating of Individual development Plan. The Contractor must attend monthly meetings with ONSE Path Maker to review and update Individual development Plan. The Contractor must attend any emergency meetings to review and update ambassador IDPs.

The Contractor is responsible for developing strategies to assist ambassadors with accomplishing IDP goals. All Contractor engagement with ambassador should be centered on IDP goals. All engagement with ambassadors must be documented into ONSE ETO data system.

The Transformative Mentoring Program Manager shall attend weekly case review meetings every Monday and Friday or as scheduled; it is expected that the Transformative Mentoring Program Manager or approved designee must attend case review meetings on time. Case Reviews include assessment of ambassador goals, progress with goals, movement through stages of readiness, effectiveness of supports and services, and impactful engagement strategies.

The Contractor shall be responsible for entering case notes and all program information into ONSE designated data system. The Contractor shall complete the following documentation as indicated:

- **Case Notes:** Routinely document contacts in Efforts To Outcomes (ETO) within 24 hours of engagement
- **Referrals:** Document all referrals for services/resources in ETO every month by the 10th of the month (for the month prior)
- **Event/Engagement Summaries:** Provide an overview of events to include attendance, outcomes, incidents, amount spent every month by the 10th of the month (for the month prior)
- **Safety Plans:** Outline safety plan for all group activities occurring in the community at least 7 days prior to activity
- **Budget:** Provide details on budget/spending to include events, activities, incentives, etc.; budget and invoicing submissions are due every 10th of the month
- **Incident Reports:** Due in data system within 24 hours after notice of an incident
- **Group Curriculum:** Outline of groups to be provided to Ambassadors on a weekly basis; gives guidance on content of group on a weekly basis
- **Group sign-in sheets:** Documents group attendees; tracked in ETO system every Friday of the week

C.7.5 Transformative Mentoring Groups

- The Contractor shall implement Transformative Mentoring groups on a weekly basis.
- The Contractor shall host at least one group per week.
- The Contractor shall provide a curriculum reflecting at least twelve (20) weeks of group content. Group curriculum must be submitted within thirty (30) days after award date. Groups must include daily sign-in sheets. Sign-in sheets are to be entered into ETO Data system by COB each Friday to reflect any groups held that week.
- Group content should include but not be limited to: coping skills, communication, life skills, conflict management, crisis response, de-escalation, decision-making, critical thinking, goal setting, education, employment, self-care, housing, community safety and community conflict.
- The Contractor shall utilize a group sign-in sheet for every group, reflecting which ambassadors are in attendance. Group sign-in sheets are due into ETO data system every Friday by 9:00pm.

C.7.6 Individual contact with Ambassadors

- The Contractor shall provide philosophy and model to be used when working with Ambassadors. The Contractor shall demonstrate individual engagement model within 30 days of receiving award.
- The Contractor shall provide individual engagement strategy within thirty (30) days of receiving award.
- The Contractor shall make contact with each ambassador at least four (4) times per week. Weekly contacts include telephone calls, video conferencing, and face-to-face meetings. At least one (1) of the four (4) contacts must be in-person in the ambassador's natural environment (i.e. home, community, employment, etc.)
- The Contractor shall work with ambassadors to work directly towards goals outlined in Individual Development Plan. All notes entered will reflect the IDP goal that was the focus of the interaction for each engagement.

C.7.7. Events and Outings

The Contractor shall host at least one (1) event or outing per quarter with ambassadors. Events and outings must include all ambassadors from the cohort in session at the time event is scheduled. Events and outings must be approved by ONSE prior to occurrence.

Events and outings must introduce ambassadors to new information, identify services or resources, introduce opportunities or facilitate development of professional relationships.

Event summaries should be entered into ETO by the 10th of the month (for the month prior). Any ambassadors engaged during event should be documented in ambassadors file within ETO.

C.8 QUALIFICATIONS:

- Demonstration of a minimum of three (3) years' experience in providing successful case management and mentoring services in the District of Columbia
- Demonstration of a comprehensive group curriculum that addresses key individual needs included but not limited to: coping skills, communication, life skills, conflict management, crisis response, de-escalation, decision-making, critical thinking, goal

setting, education, employment, self-care, housing, community safety and community conflict.

- Demonstrate high levels of success in helping individuals who are experiencing trauma, violence, and poverty to overcome barriers to growth and development; must provide example summary of success
- Demonstrate success in case management and case coordination capabilities, including ability to connect individuals to resources and services that enhance success and growth; must provide sample summary of success
- Proficient knowledge of protocols used to respond to critical incidents
- Demonstration of ability to help clients identify personal development goals they would like to accomplish
- Proven ability to help high risk individuals and families maintain connections to supports and services to help accomplish goals
- Demonstrate ability to work with 3rd party entity to track, gather and report data in require intervals

C.8.1 Staff Qualifications

The Contractor shall ensure that program staff/subcontractors' are well versed and highly skilled in:

- Understanding and operating in the cultures of District of Columbia individuals and communities that have experienced high levels of poverty, trauma, and violence
- Engaging individuals and families to implement successful life skills strategies and build trusting relationships
- Incorporating motivational interviewing and cognitive behavior therapy techniques in interactions with clients
- Assisting individuals and families with establishing or maintaining connections to supports and services
- Maintaining confidentiality and professional boundaries
- Having shared lived experiences and can relate to and build trusting relationships with Senior Ambassadors
- Performing case management duties to include accurate and timely documentation
- Adhering to ethical and professional standards to include punctuality, accountability, and professional boundaries

*****END OF SECTION C*****

SECTION D – HUMAN CARE SERVICE DELIVERY AND PERFORMANCE

D.1 TERM OF AGREEMENT

- D.1.1 The term of this HCA shall be for a period of one year from the date of award specified on the cover page of this HCA.

D.2 AGREEMENT NOT A COMMITMENT OF FUNDS OR COMMITMENT TO PURCHASE

This HCA is not a commitment by the District to purchase any quantity of a particular good or service covered under this HCA from the Provider. The District shall be obligated only to the extent that authorized purchases are actually made by task order pursuant to this HCA.

D.3 OPTION TO EXTEND TERM OF THE AGREEMENT

- D.3.1 The District may extend the term of this HCA for a period of four (4) one (1) year option periods, or successive fractions thereof, by written notice to the Provider before the expiration of the HCA; provided that the District will give the Provider preliminary written notice of its intent to extend at least 30 days before the HCA expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Provider may waive the 30 day preliminary notice requirement by providing a written waiver to the CO prior to expiration of the task order.
- D.3.2 If the District exercises this option, the extended HCA shall be considered to include this option provision.
- D.3.3 The compensation for the option periods will be as provided for in Attachment I price schedule
- D.3.4 The total duration of this HCA, including the exercise of any options under this clause, shall not exceed five years.

D.4 DELIVERABLES

The Provider shall perform the activities required to successfully complete the District's requirements and submit each deliverable to ONSE in accordance with the following:

Table D.4: Deliverables

Deliverable	Quantity	Format/Method of Delivery	Due Date
Invoice as outlined in Section E.2 with supporting proof of payment documents including, but not limited to invoices, receipts, sign-in sheets, payroll ledgers, etc.	1	Hard and electronic copy invoice via email and PASS to CA and CO	Within 30 days of the completion
Daily Contact Notes	1 contact note per day	ETO Data system	24 hours after each contact
Incident Reports (C.6.4)	1 incident report per day of incident	ETO Data system	24 hours after notice of incident
Group curriculum (C.6.4)	1		3 days after award
Action Plan (G.10.13)	1 per ambassador	ETO Data system	10 th of the month every month
Individual engagement strategy (C.7.6)	1		30 days after award
Spend down plan (C.5.1)	4	Electronic copy via email to ONSE Program Manager	Due the 10 th day of the month in October, January, April and July
Calendar of Training (C.5.3)	1	Electronically to ONSE Program Manager	Due at the beginning of each FY.
Safety Plans (C.6.4)	1 per event		7 days prior to activity
Group sign-n sheets (C.6.4)	1 per group	ETO Data system	Every Friday of the week by COB of the business day
Referrals (C.6.4)	1 per individual	ETO Data system	Due the 10 th day of the month (for the month prior)

Event/Engagement Summaries (C.6.4)	4	ETO Data System	Due the 10 th day of the month (for the month prior)
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- D.5** The Provider shall submit to the District, as a deliverable, the report described in Section G.4 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Provider does not submit the report as part of the deliverables, final payment to the Provider shall not be paid pursuant to Section G.4.

*****END OF SECTION D*****

SECTION E – HUMAN CARE SERVICE ADMINISTRATION

E.1 ORDERING CLAUSE

- E.1.1** Any supplies and services to be furnished under this HCA shall be ordered by issuance of task orders by the CO. Such orders may be issued during the term of this HCA including all option years.
- E.1.2** All task orders are subject to the terms and conditions of this HCA. In the event of a conflict between a task order and this HCA, the HCA shall control.
- E.1.3** If mailed, a task order is considered “issued” when the District deposits the order in the mail. Orders may be issued by email or by electronic commerce method.
- E.1.4** The Provider shall not provide services under this HCA unless the Provider is in actual receipt of a task order for the period of the service that is signed by the CO.

E.2 INVOICE PAYMENT

- E.2.1** The District will make payments to the Provider, upon the submission of proper invoices, at the prices stipulated in this HCA, for services performed and accepted, less any discounts, allowances or adjustments provided for in this HCA.
- E.2.2** The District will pay the Provider on or before the 30th day after receiving a proper invoice from the Provider.

E.3 INVOICE SUBMITTAL

- E.3.1** The Provider shall submit proper invoices on a monthly basis. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer (CFO) with concurrent copies to the Contract Administrator (CA) specified in Section G.10 below. The address of the CFO is:

The Office of Neighborhood Safety and Engagement (ONSE)
Office of the Controller/Agency CFO
100 42nd Street NE
Washington DC, 20019

- E.3.2** The Provider shall follow the steps below in submitting monthly invoices to ONSE:

E.3.2.3 In the event that the District revises the invoicing process set out in Section E, the District shall notify the Provider, update the Provider manual and train the Provider on the new invoicing process.

E.4 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

E.4.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in Section .G.4

E.4.2 No final payment shall be made to the Provider until the agency CFO has received the Contracting Officer's final determination or approval of waiver of the Provider's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

E.5 PAYMENT

E.5.1 The Provider will be paid monthly pursuant to the price schedule

E.6 ASSIGNMENT OF HCA PAYMENTS

E.6.1 In accordance with 27 DCMR 3250, the Provider may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this HCA.

E.6.2 Any assignment shall cover all unpaid amounts payable under this HCA, and shall not be made to more than one party.

E.6.3 Notwithstanding an assignment of HCA payments, the Provider, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

"Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee)."

E.7 THE QUICK PAYMENT CLAUSE

E.7.1 INTEREST PENALTIES TO PROVIDERS

E.7.1.1 The District will pay interest penalties on amounts due to the Provider under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

E.7.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

E.7.2 PAYMENTS TO SUBCONTRACTORS

E.7.2.1 The Provider must take one of the following actions within seven days of receipt of any amount paid to the Provider by the District for work performed by any subcontractor under this HCA:

- a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the HCA; or
- b) Notify the District and the subcontractor, in writing, of the Provider's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

E.7.2.2 The Provider must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

E.7.2.3 Any amount of an interest penalty which remains unpaid by the Provider at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

E.7.2.4 A dispute between the Provider and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

E.7.3 SUBCONTRACT REQUIREMENTS

E.7.3.1 The Provider shall include in each subcontract under this HCA a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

E.8 CONTRACTING OFFICER (CO)

HCAs and task orders pursuant to the HCAs will be entered into and signed on behalf of the District only by contracting officers. The contact information for the CO is:

Yvonne Howerton, CPCM

Sr Contracting Officer/Supervisory Contract Specialist
Public Safety and Justice Cluster
Office of Contracting and Procurement
Government of the District of Columbia
One Judiciary Square
441 4th St., NW, Room 330S
Washington DC 20001
202-724-4946 office/202-255-1249 cell
Email: Yvonne.Howerton@dc.gov

E.9 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

- E.9.1** The CO is the only person authorized to approve changes in any of the requirements of this HCA.
- E.9.2** The Provider shall not comply with any order, directive or request that changes or modifies the requirements of this HCA, unless issued in writing and signed by the CO.
- E.9.3** In the event the Provider effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the HCA to cover any cost increase incurred as a result thereof.

E.10 CONTRACT ADMINISTRATOR (CA)

- E.10.1** The CA is responsible for general administration of the HCA and advising the CO as to the Provider's compliance or noncompliance with the HCA. The CA has the responsibility of ensuring the work conforms to the requirements of the HCA and such other responsibilities and authorities as may be specified in the HCA. These include:
 - E.10.1.1** Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the HCA;
 - E.10.1.2** Coordinating site entry for Provider personnel, if applicable;
 - E.10.1.3** Reviewing invoices for completed work and recommending approval by the CO if the Provider's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
 - E.10.1.4** Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
 - E.10.1.5** Maintaining a file that includes all HCA correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.
- E.10.2** The address and telephone number of the CA is:

Dana McDaniel, Deputy Director
The Office of Neighborhood Safety and Engagement (ONSE)
100 42nd Street NE WDC 20019

(202)-368-0598 (cell)
(202)-299-3284 (office)

E.10.3 The CA shall NOT have the authority to:

1. Award, agree to, or sign any HCA, or task order. Only the CO shall make contractual agreements, commitments or modifications;
2. Grant deviations from or waive any of the terms and conditions of the HCA;
3. Increase the dollar limit of the HCA or authorize work beyond the dollar limit of the HCA;
4. Authorize the expenditure of funds by the Provider;
5. Change the period of performance; or
6. Authorize the use of District property, except as specified under the HCA.

E.10.4 The Provider will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

*****END OF SECTION E*****

PART II

SECTION F – AGREEMENT CLAUSES

F.1. Standard Contract Provisions Incorporated By Reference

The Government of the [District of Columbia Standard Contract Provisions For Use With District of Columbia Government Supply and Services, dated July 2010](#), hereafter referred to as the “Standard Contract Provisions (SCP)” are incorporated by reference into this Agreement, and shall govern the relationship of the parties as contained in this Agreement. By signing this Agreement, the Provider agrees and acknowledges its obligation to be bound by the Standard Contract Provisions, and its requirements.

F.2. Confidentiality

All services or treatment provided by the Provider through referrals by the District to the Provider shall be provided in a confidential manner and the Provider shall not release any information relating to a recipient of the services or otherwise as to the provision of those services or treatment to any individual other than an official of the District connected with the provision of services under this Human Care Agreement, except upon the written consent of the individual referral, or in the case of a minor, the custodial parent or legal guardian of the individual referral.

F.3. Amendments

This Human Care Agreement, including the Provider's Contractor Qualification Record (CQR), the applicable documents, and the attachments identified in section G constitutes the entire Agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Agreement are superseded by this Human Care Agreement. The Contracting Officer may, at any time, by written order and without notice to a surety, if any, make amendments or changes in the agreement within the general scope, services, or service rates of the Agreement. No amendment to this Agreement shall be valid unless approved in writing by the Contracting Officer, subject to any other approvals required in accordance with the District regulations at 27 DCMR. Except that the Contracting Officer may make purely clerical or administrative revisions to the Agreement with written notice to the Provider.

F.4. Tax Compliance Certification

In signing and submitting this Human Care Agreement and the Tax Certification Affidavit, the Provider certifies, attests, agrees, and acknowledges that the Provider is in compliance with all applicable tax requirements of the District of Columbia and shall maintain that compliance for the duration of the Agreement.

F.5. Subcontracts

The Provider shall not subcontract any of the work or services provided in accordance with this Agreement to any subcontractor without the prior written consent of the Contracting Officer. Any work or service that may be subcontracted shall be performed pursuant to a written subcontract agreement, which the District shall have the right to review and approve prior to its execution. Any such subcontract shall specify that the Provider and the subcontractor shall be subject to every provision of this Human Care Agreement. Notwithstanding any subcontract approved by the District, the Provider shall remain solely liable to the District for all services required under this Human Care Agreement.

F.6 Provider Responsibility

F.6.1 The Provider bears primary responsibility for ensuring that the Provider fulfills all its Human Care Agreement requirements under any task order or purchase order that is issued to the Provider pursuant to this Human Care Agreement.

F.6.2 The Provider shall notify the District immediately whenever the Provider does not have adequate staff, financial resources, or facilities to comply with the provision of services under this Human Care Agreement.

F.6.3 The Provider's employees shall report all unusual incidents on the Unusual Incident Report, including allegations of abuse or neglect, involving any patient that is provided with services or treatment by the Provider by telephone to DOH, and followed up by a written report to DOH within forty-eight (48) hours of the unusual incident.

F.7 PUBLICITY

The Provider shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subProviders, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this Agreement.

F.8 CONFLICT OF INTEREST

- F.8.1** No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the agreement or proposed agreement. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Code Section 1-1190.1 and Chapter 18 of the DC Personnel Regulations).
- F.8.2** The Provider represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Provider further covenants not to employ any person having such known interests in the performance of the agreement.

F.9 Department Of Labor Wage Determinations

The Provider shall be bound by Wage Determination No. [No.2015-4281 Revision 19](#), dated Jul 21, 2021, issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351). The Provider shall be bound by the wage rates for the term of the contract. If an option is exercised, the Provider shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer for the option obtains a revised wage determination, that determination is applicable for the option period(s); the Provider may be entitled to an equitable adjustment.

F.10 Access to Records

- F.10.1** The Provider shall retain all case records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the human care agreement for a period of five (5) years after termination of the human care agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.
- F.10.2** The Provider shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.
- F.10.3** Persons duly authorized by the Contracting Officer shall have full access to and the right to examine any of the Provider's human care agreement and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.

F.11 WAY TO WORK AMENDMENT ACT OF 2006

- F.11.1** Except as described in H. 8 below, the Provider shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) ("Living Wage Act of 2006"), for contracts for services in the amount of \$100,000 or more in a 12-month period.
- F.11.2** The Provider shall pay its employees and subProviders who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

- F.11.3** The Provider shall include in any subcontract for \$15,000 or more a provision requiring the subProvider to pay its employees who perform services under the contract no less than the current living wage rate.
- F.11.4** The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.
- F.11.5** The Provider shall provide a copy of the Fact Sheet attached as J._ to each employee and subProvider who performs services under the contract. The Provider shall also post the Notice attached as J._ in a conspicuous place in its place of business. The Provider shall include in any subcontract for \$15,000 or more a provision requiring the subProvider to post the Notice in a conspicuous place in its place of business.
- F.11.6** The Provider shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- F.11.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- F.11.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
 - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
 - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
 - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
 - (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
 - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
 - (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
 - (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
 - (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
 - (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

F.11.9 The Mayor may exempt a Provider from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

F.12 HIPAA BUSINESS ASSOCIATE COMPLIANCE AGREEMENT

For the purpose of this Business Associate Agreement (“BAA”), **ONSEJ**, a covered component within the District of Columbia’s (“District”) Hybrid Entity will be referred to as a “Covered Entity” as that term is defined by the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”) and associated regulations promulgated at 45 C.F.R. §§ 160, 162 and 164 as amended (the “HIPAA Regulations”) and **[INSERT VENDOR INFORMATION]**, as a recipient of Protected Health Information (“PHI”) or electronic PHI from **ONSEJ**, is a “Business Associate” as that term is defined by HIPAA.

Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in the HIPAA Regulations.

F.12.1 Definitions

- a. *Business Associate* means a person or entity, who, on behalf of the District or of an Organized Health Care Arrangement (as defined in this section) in which the Covered Entity participates, but other than in the capacity of a member of the Workforce of the District government or Organized Health Care Arrangement, creates, receives, maintains, or transmits PHI for a function or activity for the District, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities listed at 42 C.F.R § 3.20, billing, benefit management, practice management, and repricing; or provides, other than in the capacity of a member of the Workforce of such Covered Entity, legal, actuarial, accounting, consulting, Data Aggregation (as defined in 45 C.F.R § 164.501), management, administrative, accreditation, or financial services to or for the District, or to or for an Organized Health Care Arrangement in which the District participates, where the provision of the service involves the disclosure of PHI from the District or arrangement, or from another Business Associate of the District or arrangement, to the person. A Covered Entity may be a Business Associate of another Covered Entity.

A Business Associate includes, (i) a Health Information Organization, e-prescribing gateway, or other person that provides data transmission services with respect to PHI to a Covered Entity and that requires access on a routine basis to such PHI; (ii) a person that offers a personal health record to one or more individuals on behalf of the District; (iii) a subcontractor that creates, receives, maintains, or transmits PHI on behalf of the Business Associate.

A *Business Associate* does not include: (i) a health care provider, with respect to disclosures by a Covered Entity to the health care provider concerning the treatment of the individual; (ii) a plan sponsor, with respect to disclosures by a group health plan (or by a health insurance issuer or health maintenance organization, HMO, with respect to a group health plan) to the plan sponsor, to the extent that the requirements of 45 C.F.R § 164.504(f) apply and are met; (iii) a government agency, with respect to determining eligibility for, or enrollment in, a

government health plan that provides public benefits and is administered by another government agency, or collecting PHI for such purposes, to the extent such activities are authorized by law; (iv) a Covered Entity participating in an Organized Health Care Arrangement that performs a function, activity or service included in the definition of a Business Associate above for or on behalf of such Organized Health Care Arrangement.

- b. *Covered Entity* means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. §§ 160 and 164. With respect to this BAA, *Covered Entity* shall also include the designated Health Care Components of the District government's Hybrid Entity or a District agency following HIPAA's implementing regulations and best practices.
- c. *Covered Functions* means those functions of a Covered Entity the performance of which makes the entity a health plan, health care provider, or health care clearinghouse.
- d. *Data Aggregation* means, with respect to PHI created or received by a Business Associate in its capacity as the Business Associate of a Covered Entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another Covered Entity, to permit data analyses that relate to the health care operations of the respective Covered Entities.
- e. *Designated Record Set* means a group of records maintained by or for a Covered Entity that are:
 - i. The medical records and billing records about individuals maintained by or for a covered health care provider;
 - ii. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - iii. Records used, in whole or in part, by or for the Covered Entity to make decisions about individuals.
- f. *Health Care* means care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:
 - i. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and
 - ii. Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.
- g. *Health Care Components* means a component or a combination of components of a Hybrid Entity designated by a Hybrid Entity in accordance with 45 CFR § 164.105(a)(2)(iii)(D). *Health Care Components* must include non-Covered Functions that provide services to the Covered Functions for the purpose of facilitating the sharing of PHI with such functions of the Hybrid Entity without Business Associate agreements or individual authorizations.
- h. *Health Care Operations* shall include (1) conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary

purpose of any studies resulting from such activities; patient safety activities (as defined in 42 C.F.R § 3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment; (2) reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities; (3) except as prohibited under 45 C.F.R. § 164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of 45 C.F.R. § 164.514(g) are met, if applicable; (4) conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; (5) business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and (6) business management and general administrative activities of the entity, including, but not limited to: (i) management activities relating to implementation of and compliance with the requirements of this subchapter; (ii) customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that PHI is not disclosed to such policy holder, plan sponsor, or customer. (iii) resolution of internal grievances; (iv) The sale, transfer, merger, or consolidation of all or part of the Covered Entity with another Covered Entity, or an entity that following such activity will become a Covered Entity and due diligence related to such activity; and (v) consistent with the applicable requirements of 45 C.F.R. § 164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of the Covered Entity..

- i. *Hybrid Entity* means a single legal entity that is a Covered Entity and whose business activities include both covered and non-Covered Functions, and that designates Health Care Components, in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A *Hybrid Entity* is required to designate Health Care Components, any other components of the entity that provide services to the Covered Functions for the purpose of facilitating the sharing of PHI with such functions of the Hybrid Entity without Business Associate agreements or individual authorizations. The District is a Hybrid Covered Entity. Hybrid Entities are required to designate and include functions, services and activities within its own organization, which would meet the definition of Business Associate and irrespective of whether performed by employees of the Hybrid Entity, as part of its Health Care Components for compliance with the Security Rule and privacy requirements under this BAA.
- j. *Individual* shall mean the person who is the subject of PHI in accordance with 45 C.F.R. § 160.103. The term *individual* shall also include the individual's personal representative in accordance with 45 C.F.R. § 164.502(g).
- k. *Individually Identifiable Health Information* shall mean information that is a subset of health information, including demographic information collected from an individual, and;

- i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse;
 - ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - iii. That identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- l. *National Provider Identifier (NPI)* shall mean the Standard Unique Health Identifier for Healthcare Providers as defined at 42 C.F.R. § 162.406.
- m. *Organized Health Care Arrangement* shall mean (1) a clinically integrated care setting in which individuals typically receive health care from more than one health care provider; (2) an organized system of health care in which more than one Covered Entity participates and in which the participating Covered Entities: (i) hold themselves out to the public as participating in a joint arrangement; and (ii) participate in joint activities that include at least one of the following: (a) utilization review, in which health care decisions by participating Covered Entities are reviewed by other participating Covered Entities or by a third party on their behalf; (b) quality assessment and improvement activities, in which treatment provided by participating Covered Entities is assessed by other participating Covered Entities or by a third party on their behalf; or (c) payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating Covered Entities through the joint arrangement and if PHI created or received by a Covered Entity is reviewed by other participating Covered Entities or by a third party on their behalf for the purpose of administering the sharing of financial risk in accordance with 42 C.F.R. § 160.103.
- n. *Personal Representative*: shall mean a person authorized, under District or other applicable law, to act on behalf of the subject of PHI in accordance with 42 C.F.R. § 164.502(g).
- o. *Privacy and Security Official*: shall mean the person or persons designated by the District, a Hybrid Entity, who is/are responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with HIPAA Regulations, and other applicable federal and state privacy laws.
- p. *Privacy Officer* shall mean the person designated by the District's Privacy and Security Official or one of the District's covered components within its Hybrid Entity, who is responsible for overseeing compliance with a Covered Agency's Privacy Policies and Procedures, the HIPAA Regulations and other applicable federal and state privacy laws. Also referred to as the agency Privacy Officer, the individual shall follow the guidance of the District's Privacy and Security Official, and shall be responsive to and report to the District's Privacy and Security Official on matters pertaining to HIPAA compliance.
- q. *Privacy Rule* shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. parts 160 and 164, subparts A and E.
- r. *Protected Health Information ("PHI")* means individually identifiable health information, including electronic information ("ePHI"), that is created or received by

the Business Associate from or on behalf of the Covered Entity, or agency following HIPAA best practices, which is:

- i. Transmitted by, created or maintained in electronic media; or
 - ii. Transmitted or maintained in any other form or medium;
 - iii. PHI or ePHI does not include individually identifiable health information: (i) In education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g; (ii) In records described at 20 U.S.C. § 1232(g)(a)(4)(B)(iv); (iii) In employment records held by a Covered Entity in its role as employer; and (iv) Regarding a person who has been deceased for more than 50 years.
- s. *Record* shall mean any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a Covered Entity.
- t. *Required By Law* means a mandate contained in law that compels an entity to make a use or disclosure of PHI 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 pursuant to 45 C.F.R. § 164.103.
- u. *Secretary* means the person serving as Secretary of the United States Department of Health and Human Services (HHS) or any other officer or employee of HHS to whom the authority involved has been delegated.
- v. *Security Officer* means the person designated by the Security Official or one of the District of Columbia's designated Health Care Components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the Security Rules, and other applicable federal and state privacy law(s). The Covered Agency's security officer shall follow the guidance of the District's Security Official, as well as the Associate Security Official within the Office of the Chief Technology Officer, and shall be responsive to the same on matters pertaining to HIPAA compliance.
- w. *Security Rule* shall mean the Standards for Security of Individually Identifiable Health Information at 45 C.F.R. parts 160, 162 and 164, subpart C.
- x. Unsecured PHI shall mean PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the U.S. Department of Health and Human Services Secretary in the guidance issue under § 13402(h)(2) of the Health Information Technology Economic and Clinical Health Act (HITECH), enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA)(Pub.L 111-5, 123 Stat 115), approved February 17, 2009.
- y. *Workforce* shall mean employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is

under the direct control of such Covered Entity, whether or not they are paid by the Covered Entity or Business Associate.

2. Obligations and Activities of Business Associate

Business Associate agrees to comply with applicable federal and District confidentiality and security laws, including, but not limited to the Privacy Rule and Security Rule and the following:

- a. Business Associate agrees not to use or disclose PHI or ePHI (other than as permitted or required by this BAA or as Required by Law.
- b. Business Associate agrees to use appropriate safeguards and comply with administrative, physical, and technical safeguards requirements described at 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 as required by § 13401 of the Health Information Technology Economic and Clinical Health Act (“HITECH”), enacted as part of the American Recovery and Reinvestment Act of 2009 (“ARRA”)(Pub.L 111-5, 123 Stat 115) approved February 17, 2009, to maintain the security of the PHI and to prevent use or disclosure of such PHI other than as provided for by this BAA. Business Associate acknowledges that, pursuant § 13401, Business Associate must comply with the Security Rule and privacy provisions detailed in this BAA.

The additional requirements of § 13401 of HITECH that relate to security and apply to a Covered Entity shall also apply to Business Associate and shall be incorporated into an agreement between the Business Associate and the Covered Entity. Business Associate shall be directly liable for any violations of this BAA or HIPAA Regulations. A summary of HIPAA Security Standards for the Protection of ePHI, found at Appendix A to Subpart C or 45 C.F.R. Part 164 is as follows:

Administrative Safeguards

Security Management Process	164.308(a)(1)	Risk Analysis (R) Risk Management (R) Sanction Policy (R) Information System Activity Review (R)
Assigned Security Responsibility	164.308(a)(2)	(R)
Workforce Security	164.308(a)(3)	Authorization and/or Supervision (A) Workforce Clearance Procedure Termination Procedures (A)
Information Access Management	164.308(a)(4)	Isolating Health care Clearinghouse Function (R) Access Authorization (A) Access Establishment and Modification (A)
Security Awareness and Training	164.308(a)(5)	Security Reminders (A) Protection from Malicious Software (A) Log-in Monitoring (A) Password Management (A)

Security Incident Procedures	164.308(a)(6)	Response and Reporting (R)
Contingency Plan	164.308(a)(7)	Data Backup Plan (R) Disaster Recovery Plan (R) Emergency Mode Operation Plan (R) Testing and Revision Procedure (A) Applications and Data Criticality Analysis (A)
Evaluation	164.308(a)(8)	(R)
Business Associate Contracts and Other Arrangement	164.308(b)(1)	Written Contract or Other Arrangement (R)

Physical Safeguards

Facility Access Controls	164.310(a)(1)	Contingency Operations (A) Facility Security Plan (A) Access Control and Validation Procedures (A) Maintenance Records (A)
Workstation Use	164.310(b)	(R)
Workstation Security	164.310(c)	(R)
Device and Media Controls	164.310(d)(1)	Disposal (R) Media Re-use (R) Accountability (A) Data Backup and Storage (A)

Technical Safeguards (see § 164.312)

Access Control	164.312(a)(1)	Unique User Identification (R) Emergency Access Procedure (R) Automatic Logoff (A) Encryption and Decryption (A)
Audit Controls	164.312(b)	(R)
Integrity	164.312(c)(1)	Mechanism to Authenticate Electronic Protected Health Information (A)
Person or Entity Authentication	164.312(d)	(R)
Transmission Security	164.312(e)(1)	Integrity Controls (A) Encryption (A)

- c. The Business Associate agrees to name a Privacy and/or Security Officer who is accountable for developing, maintaining, implementing, overseeing the compliance of and enforcing compliance with this BAA, the Security Rule and other applicable federal and state privacy law within the Business Associate's business. The Business Associate reports violations and conditions to the District-wide Privacy and

Security Official and/or the Agency Privacy Officer of the covered component within the District's Hybrid Entity.

- d. The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious effects that are known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this BAA.
- e. The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the PHI not permitted or required by this BAA or other incident or condition arising out the Security Rule, including breaches of unsecured PHI as required at 45 C.F.R § 164.410, to the District-wide Privacy and Security Official or agency Privacy Officer within ten (10) business days from the time the Business Associate becomes aware of such unauthorized use or disclosure. However, if the Business Associate is an agent of the District (i.e., performing delegated essential governmental functions), the Business Associate must report the incident or condition immediately. Upon the determination of an actual data breach, and in consultation with the District's Privacy and Security Official, the Business Associate will handle breach notifications to individuals, the U.S. Department of Health and Human Services, Office for Civil Rights (OCR), and potentially the media, on behalf of the District.
- f. The Business Associate agrees to ensure that any Workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this BAA with respect to PHI received from the Business Associate, PHI created by the Business Associate, or PHI received by the Business Associate on behalf of the Covered Entity.
- g. In accordance with 45 C.F.R §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information
- h. Initially, within ten (10) business days following the commencement of this Contract, or within ten (10) business days of a new or updated agreement with a subcontractor, the Business Associate agrees to provide the District a list of all subcontractors who meet the definition of a Business Associate. Additionally, Business Associate agrees to ensure its subcontractors understanding of liability and monitor, where applicable, compliance with the Security Rule and applicable privacy provisions in this BAA.
- i. The Business Associate agrees to provide access within five (5) business days, at the request of the Covered Entity or an Individual, **at a mutually agreed upon location, during normal business hours, and in a format** as directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District laws, rules and regulations, to PHI in a Designated Record Set, to the Covered Entity or an Individual, to facilitate the District's compliance with the requirements under 45 C.F.R. §164.524.
- j. The Business Associate agrees to make any amendment(s) within five (5) business days to the PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R § 164.526 in a format *ONSE should insert appropriate terms for amendment if applicable* or as directed by the District Privacy Official or agency

Privacy Officer in order to facilitate the District's compliance with the requirements under 45 C.F.R. §164.526.

- k. The Business Associate agrees to use the standard practices of the Covered Entity to verify the identification and authority of an Individual who requests the PHI in a Designated Record Set of a recipient of services from or through the Covered Entity. The Business Associate agrees to comply with the applicable portions of the [*Insert Applicable Agency Identity And Procedure Verification Policy*], attached hereto as Exhibit A and incorporated by reference.
- l. The Business Associate agrees to record authorizations and log such disclosures of PHI and information related to such disclosures as would be required for the 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 and applicable District laws, rules and regulations.
- m. The Business Associate agrees to provide to the Covered Entity or an Individual, within five (5) business days of a request **at a mutually agreed upon location, during normal business hours, and in a format designated** [*delete bolded material and insert agency appropriate terms if applicable*] by the District's Privacy and Security Official or agency Privacy Officer and the duly authorized Business Associate Workforce member, information collected in accordance with Paragraph (i) of this Section above, to permit the 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, and applicable District laws, rules and regulations.
- n. The Business Associate agrees to make internal practices, books, and records, including policies and procedures, and PHI, relating to the use and disclosure of PHI received from the Business Associate, or created, or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary, within five (5) business days of their request and **at a mutually agreed upon location, during normal business hours, and in a format designated** [*delete bolded material and insert negotiated terms if applicable*] by the District Privacy and Security Official or agency Privacy Officer and the duly authorized Business Associate Workforce member, or in a time and manner designated by the Secretary, for purposes of the Secretary in determining compliance of the Covered Entity with the Privacy Rule.
- o. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R Part 164, the Business Associate agrees to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
- p. As deemed necessary by the District, the Business Associate agrees to the monitoring and auditing of items listed in paragraph 2 of this BAA, as well as data systems storing or transmitting PHI, to verify compliance.
- q. The Business Associate may aggregate PHI in its possession with the PHI of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate to other Covered Entities provided that the purpose of the Data Aggregation is to provide the Covered Entity with data analyses to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose PHI of one Covered Entity to another Covered Entity absent the

explicit written authorization and consent of the Privacy Officer/Liaison or a duly authorized Workforce member of the Covered Entity.

- r. Business Associate may de-identify any and all PHI provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(a)-(b) and any associated HHS guidance. Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this BAA.
- s. If the Business Associate has not submitted the District's Business Associate Questionnaire prior to contract award, the Business Associate shall file the Questionnaire with the Agency Privacy Officer/Liaison or the Agency Contract Administrator within 30 days after contract award. Business Associate shall file and submit an updated Questionnaire to the Agency Privacy Officer/Liaison or the Agency Contract Administrator on or before October 1st of each contract year. At the discretion of the Agency Privacy Officer/Liaison, Business Associates with limited access to PHI may be granted a written waiver to file a letter attesting to their HIPAA compliance on or before October 1st of each contract year. A copy of the Business Associate Questionnaire can be located at www.ocp.dc.gov /OCP Solicitations /Required Solicitation Documents.

3. Permitted Uses and Disclosures by the Business Associate

- a. Except as otherwise limited in this BAA, the Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Contract, provided that such use or disclosure would not violate Subpart E of 45 C.F.R Part 164 if the same activity were performed by the Covered Entity or would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. Except as otherwise limited in this BAA, the Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- c. Except as otherwise limited in this BAA, the Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that the disclosures are Required By Law, or the Business Associate 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 Business Associate of any instances of which it has knowledge that the confidentiality of the information has been breached.
- d. Except as otherwise limited in this BAA, the Business Associate may use PHI to provide Data Aggregation services to the Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- e. Business Associate may use PHI to report violations of this BAA or the HIPAA Regulations to the appropriate federal and District of Columbia authorities, consistent with 45 C.F.R. § 164.502(j)(1)-(2).

4. Additional Obligations of the Business Associate

- a. Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the Privacy Officer no later

than thirty (30) business days after the commencement of this BAA. In the event that Business Associate utilizes new files or reports which constitute the Designated Record Set, Business Associate shall notify the Covered Entity of said event within thirty (30) days of the commencement of the file's or report's usage. The Designated Record Set file shall include, but not be limited to the identity of the following:

- i. Name of the Business Associate of the Covered Entity;
 - ii. Title of the Report/File;
 - iii. Confirmation that the Report/File contains PHI(Yes or No);
 - iv. Description of the basic content of the Report/File;
 - v. Format of the Report/File (Electronic or Paper);
 - vi. Physical location of Report/File;
 - vii. Name and telephone number of current member(s) of the Workforce of the Covered Entity or other District Government agency responsible for receiving and processing requests for PHI; and
 - viii. Supporting documents if the recipient/personal representative has access to the Report/File.
- b. Business Associate must provide assurances to the Covered Entity that it will continue to employ sufficient administrative, technical and physical safeguards, as described under the Security Rule, to protect and secure (the Covered Entity's) ePHI entrusted to it. These safeguards include:
- i. The Business Associate agrees to administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that the Business Associate creates, receives, maintains or transmits on behalf of the Covered Entity.
 - ii. The Business Associate agrees to report to the Covered Entity any security incident of which it becomes aware, including any attempts to access ePHI, whether those attempts were successful or not.
 - iii. This BAA may be terminated if the Covered Entity determines that the Business Associate has materially breached the agreement.
 - iv. The Business Associate agrees to make all policies and procedures, and documents relating to security, available to the Secretary of HHS for the purposes of determining the Covered Entity's compliance with HIPAA.
 - v. This BAA continues in force for as long as the Business Associate retains any access to the Covered Entity's ePHI.
 - vi. With respect to the subset of PHI known as electronic PHI (ePHI) as defined by HIPAA Security Standards at 45 C.F.R. §§ 160 and 164, subparts A and C (the "Security Rule"), if in performing the Services, Business Associate, its employees, agents, subcontractors and any other individual permitted by Business Associate will have access to any computer system, network, file, data or software owned by or licensed to Provider that contains ePHI, or if Business Associate otherwise creates, maintains, or transmits ePHI on Provider's behalf, Business Associate shall take reasonable security measures necessary to protect the security of all

such computer systems, networks, files, data and software. With respect to the security of ePHI, Business Associate shall: (a) Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of the Provider; (b) Ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it; and (c) Report to the Provider any security incident of which it becomes aware.

vii. Business Associate agrees not to electronically transmit or permit access to PHI unless such transmission or access is authorized by this BAA and further agrees that it shall only transmit or permit such access if such information is secured in a manner that is consistent with applicable law, including the Security Rule. For purposes of this BAA "encrypted" shall mean the reversible conversion of readable information into unreadable, protected form so that only a recipient who has the appropriate "key" can convert the information back into original readable form. If the Covered Entity stores, uses or maintains PHI in encrypted form, or in any other secured form acceptable under the security regulations, Covered Entity shall promptly, at request, provide with the key or keys to decrypt such information and will otherwise assure that such PHI is accessible by upon reasonable request.

viii. In the event Business Associate performs functions or activities involving the use or disclosure of PHI on behalf of Covered Entity that involve the installation or maintenance of any software (as it functions alone or in combination with any hardware or other software), Business Associate shall ensure that all such software complies with all applicable standards and specifications required by the HIPAA Regulations and shall inform of any software standards or specifications not compliant with the HIPAA Regulations.

c. At the request of the Covered Entity, the Business Associate agrees to amend this BAA to comply with all HIPAA mandates.

5. Sanctions

Business Associate agrees that its Workforce members, agents and subcontractors who violate the provisions of HIPAA or other applicable federal or District privacy law will be subject to discipline in accordance with Business Associate's internal Personnel Policy and applicable collective bargaining agreements. Business Associate agrees to impose sanctions consistent with Business Associate's personnel policies and procedures and applicable collective bargaining agreements with respect to persons employed by it. Members of the Business Associate Workforce who are not employed by Business Associate are subject to the policies and applicable sanctions for violation of this BAA. In the event Business Associate imposes sanctions against any member of its Workforce, agents and subcontractors for violation of the provisions of HIPAA or other applicable federal or District privacy laws, the Business Associate shall inform the District Privacy Official or the agency Privacy Officer/Liasion of the imposition of sanctions.

6. Obligations of the Covered Entity

- a. The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect the use or disclosure of PHI by the Business Associate.
- b. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to the use or disclosure of PHI, to the extent that such changes may affect the use or disclosure of PHI by the Business Associate.
- c. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the use or disclosure of PHI by the Business Associate.

7. Permissible Requests by Covered Entity

Covered Entity shall not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule and Subpart E of 45 C.F.R Part 164 if done by the Covered Entity.

8. Representations and Warranties.

The Business Associate represents and warrants to the Covered Entity:

- a. That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to execute this BAA and it, its employees, agents, subcontractors, representatives and members of its Workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this BAA has been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws;
- b. That it, its employees, agents, subcontractors, representatives and members of its Workforce are in good standing with the District, that it, its employees, agents, subcontractors, representatives and members of its Workforce will submit a letter of good standing from the District, and that it, its employees, agents, subcontractors, representatives and members of its Workforce have not been debarred from being employed as a contractor by the federal government or District;
- c. That neither the execution of this BAA, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it will not enter into any agreement the execution or performance of which would violate or interfere with this BAA;
- d. That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;

- e. That all of its employees, agents, subcontractors, representatives and members of its Workforce, whose services may be used to fulfill obligations under this BAA are or shall be appropriately informed of the terms of this BAA and are under legal obligation to the Business Associate, by contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this BAA. Modifications or limitations that the Covered Entity has agreed to adhere to with regards to the use and disclosure of PHI of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule will be communicated to the Business Associate, in writing, and in a timely fashion;
- f. That it will reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement;
- g. That neither the Business Associate, nor its shareholders, members, directors, officers, agents, subcontractors, employees or members of its Workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or District healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or District law (including without limitation following a plea of *nolo contendere* or no contest or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or District healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state, or local government agency (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. The Business Associate further agrees to notify the Covered Entity immediately after the Business Associate becomes aware that any of the foregoing representations and warranties may be inaccurate or may become incorrect

9. Term and Termination

- a. *Term.* The requirements of this BAA shall be effective as of the date of the contract award, and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request. The PHI shall be returned in a format mutually agreed upon by and between the Privacy Official and/or Privacy Officer or their designee and the appropriate and duly authorized Workforce member of the Business Associate. If it is infeasible to return or confidentially destroy the PHI, protections shall be extended to such information, in accordance with the termination provisions in this Section and communicated to the Privacy Official or Privacy Officer or their designee. The requirement to return PHI to the District at the end of the contract term or if the contract is terminated applies irrespective of whether the Business Associate is also a Covered Entity under HIPAA. Where a Business Associate is also a Covered Entity, PHI provided by the District, or created or received by the Business Associate on behalf of the District, a duplicate of the record may be acceptable if mutually agreed.

b. *Termination for Cause.* Upon the Covered Entity's knowledge of a material breach of this BAA by the Business Associate, the Covered Entity shall either:

- i. Provide an opportunity for the Business Associate to cure the breach within a period of ten (10) days (or such longer period as the District may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- ii. Immediately terminate the Contract if the Business Associate breaches a material term of this BAA and a cure is not possible.

If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary of HHS.

c. *Effect of Termination.*

- i. Except as provided in paragraph (ii) of this section, upon termination of the Contract, for any reason, the Business Associate shall return in **a mutually agreed upon format or confidentially destroy** *[delete bolded material and insert negotiated terms and conditions if applicable]* all PHI received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity within five (5) business days of termination. This provision shall apply to PHI that is in the possession of ALL subcontractors, agents or Workforce members of the Business Associate. The Business Associate shall retain no copies of PHI in any form.
- ii. In the event that the Business Associate determines that returning or destroying the PHI is infeasible, the Business Associate shall provide written notification to the Covered Entity of the conditions that make the return or confidential destruction infeasible. Upon determination by the agency Privacy Officer/Liaison that the return or confidential destruction of the PHI is infeasible, the Business Associate shall extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI for so long as the Business Associate maintains such PHI. Additionally, the Business Associate shall:
 - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - (2) Return to Covered Entity [or, if agreed to by Covered Entity, destroy] the remaining PHI that the Business Associate still maintains in any form;
 - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R Part 164 with respect to ePHI to prevent use or disclosure of the PHI, other than as provided for in this section, for as long as Business Associate retains the PHI;
 - (4) Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at [Insert section number related to

paragraph (under “Permitted Uses and Disclosures By The Business Associate”) which applied prior to termination; and

- (5) Return to Covered Entity [or, if agreed to by Covered Entity, destroy] the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

The obligations outlined in Section 2. Obligations and Activities of Business Associate shall survive the termination of this Contract.

10. Miscellaneous

- a. *Regulatory References.* A reference in this BAA to a section in the Privacy Rule means the section as in effect or as amended.
- b. *Amendment.* A Covered Entity and Business Associate (“the Parties”) agree to take such action as is necessary to amend this BAA from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and HIPAA Regulations. Except for provisions Required By Law as defined herein, no provision hereof shall be deemed waived unless in expressed in writing and signed by duly authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this BAA.
- c. *Survival.* The respective rights and obligations of the Business Associate under Section 9. Term and Termination of this HIPAA Compliance BAA and Sections 9 and 20 of the Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts shall survive termination of the Contract.
- d. *Interpretation.* Any ambiguity in this BAA shall be resolved to permit compliance with applicable federal and District laws, rules and regulations, and the HIPAA Rules, and any requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable federal and District laws, rules and regulations shall supersede the Privacy Rule if, and to the extent that they impose additional requirements, have requirements that are more stringent than or provide greater protection of patient privacy or the security or safeguarding of PHI than those of the HIPAA Regulations.

The terms of this BAA amend and supplement the terms of the Contract.. In the event of a conflict between the terms of the BAA and the terms of the Contract, the terms of this BAA shall control; provided, however, that this BAA shall not supersede any other federal or District law or regulation governing the legal relationship of the Parties, or the confidentiality of records or information, except to the extent that the Privacy Rule preempts those laws or regulations. In the event of any conflict between the provisions of the Contract (as amended by this BAA) and the Privacy Rule, the Privacy Rule shall control.

- e. *No Third-Party Beneficiaries.* The Covered Entity and the Business Associate are the only parties to this BAA and are the only parties entitled to enforce its terms. Except for the rights of Individuals, as defined herein, to have access to and amend their PHI, and to an accounting of the uses and disclosures thereof, in accordance

with paragraphs (2)(f), (g) and (j) of this BAA, nothing in the BAA gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons.

- f. *Compliance with Applicable Law.* The Business Associate shall comply with all federal and District laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this BAA and the Contract; to the extent they are applicable to this BAA and the Contract.
- g. *Governing Law and Forum Selection.* This Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District. The Covered Entity and the Business Associate agree that all disputes which cannot be amicably resolved by the Covered Entity and the Business Associate regarding this BAA shall be litigated before the District of Columbia Contract Appeals Board, the District of Columbia Court of Appeals, or the United States District Court for the District of Columbia having jurisdiction, as the case may be. The Covered Entity and the Business Associate expressly waive any and all rights to initiate litigation, arbitration, mediation, negotiations and/or similar proceedings outside the physical boundaries of the District of Columbia and expressly consent to the jurisdiction of the above tribunals.
- h. *Indemnification.* The Business Associate shall indemnify, hold harmless and defend the Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this BAA; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this BAA.
- i. *Injunctive Relief.* Notwithstanding any rights or remedies under this BAA or provided by law, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by the Business Associate, its Workforce, any of its subcontractors, agents, or any third party who has received PHI from the Business Associate.
- j. *Assistance in litigation or administrative proceedings.* The Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or its Workforce assisting the Business Associate in the fulfillment of its obligations under this HIPAA Compliance BAA and the Contract, available to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its Workforce are a named adverse party.
- k. *Notices.* Any notices between the Parties or notices to be given under this BAA shall be given in writing and delivered by personal courier delivery or overnight courier delivery, or by certified mail with return receipt requested, to the Business Associate or to the Covered Entity, to the addresses given for each Party below or to the address either Party hereafter gives to the other Party. Any notice, being addressed and mailed in the foregoing manner, shall be deemed given five (5) business days

after mailing. Any notice delivered by personal courier delivery or overnight courier delivery shall be deemed given upon notice upon receipt.

If to the Business Associate, to

If to the Covered Entity, to

Attention: _____

Attention: _____

Fax: _____

Fax: _____

- i. *Headings*. Headings are for convenience only and form no part of this BAA and shall not affect its interpretation.
- m. *Counterparts; Emails*. This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Email copies hereof shall be deemed to be originals.
- n. *Successors and Assigns*. The provisions of this BAA shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
- o. *Severance*. In the event that any provision of this BAA is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this BAA will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this BAA fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this BAA, if necessary to bring the contested provision(s) into compliance.
- p. *Independent Contractor*. The Business Associate will function as an independent contractor and shall not be considered an employee of the Covered Entity for any purpose. Nothing in this BAA shall be interpreted as authorizing the Business Associate Workforce, its subcontractor(s) or its agent(s) or employee(s) to act as an agent or representative for or on behalf of the Covered Entity.
- q. *Entire Agreement*. This BAA, as may be amended from time to time pursuant to Section 10. Miscellaneous, Paragraph b. Amendment, which incorporates by reference specific procedures from the District of Columbia Department of Health Privacy Policy Operations Manual, constitutes the entire agreement and understanding between the Parties and supersedes all prior oral and written agreements and understandings between them with respect to applicable District and federal laws, rules and regulations, HIPAA and the Privacy Rule, and any rules, regulations, requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary of HHS.

Attachments:

F.13 Insurance

F.13.1 GENERAL REQUIREMENTS. The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.
4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.
5. Professional Liability Insurance (Errors & Omissions). The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per occurrence for each wrongful act and \$3,000,000 annual aggregate.

The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.

6. Crime Insurance (3rd Party Indemnity). The Contractor shall provide a 3rd Party Crime policy to cover the dishonest acts of Contractor's employees which result in a loss to the District. The policy shall provide a limit of \$50,000 per occurrence. This coverage shall be endorsed to name the District of Columbia as joint-loss payee, as their interests may appear.
7. Sexual/Physical Abuse & Molestation. The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate. The policy coverage shall include the District of Columbia as an additional insured. This insurance requirement will be considered met **if the general liability insurance includes sexual abuse and molestation coverage for the required amounts.**

F.13.2 DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.

F.13.3 LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**

F.13.4 CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

F.13.5 MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

F.13.6 NOTIFICATION. The Contractor shall immediately provide the CO with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the CO.

F.13.7 CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And mailed to the attention of:

Yvonne Howerton, CPCM
Sr Contracting Officer/Supervisory Contract Specialist
Public Safety and Justice Cluster
Office of Contracting and Procurement

Government of the District of Columbia
One Judiciary Square
441 4th St., NW, Room 330S
Washington DC 20001
202-724-4946 office/202-255-1249 cell
Email: Yvonne.Howerton@dc.gov

F.13.8 DISCLOSURE OF INFORMATION. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

F.14 Malpractice Insurance

The Provider shall have malpractice insurance or other appropriate professional liability insurance for those employees of the Provider whose decisions could impact the medical care of the District covered employees through the term of the contract. Insurance shall be for not less than \$3,000,000 for individual incidents and \$5,000,000 in annual aggregate to cover all incidents of malpractice alleged to have occurred during the term of the contract. Failure to maintain the malpractice insurance at any time during the term of the contract shall be a basis for termination of the contract for default.

F.16. Eligibility

Eligibility for services under this Human Care Agreement shall be determined and re-determined by the District, as applicable, in accordance with prescribed procedures. The Provider shall be subject to a written determination that it is qualified to provide the services and shall continue the same level of qualifications, subject to a review by the District, according to the criteria delineated in 27 DCMR, Chapter 19, Section 1905.6, as amended.

F.17 Compliance With Laws

As a condition of the Provider's obligation to perform for the District's under this Agreement, the Provider shall comply with all applicable District, federal and other state and local governmental laws, regulations, standards, or ordinances and, where applicable, any other applicable licensing and permit laws, regulations, standards, or ordinances as necessary for the lawful provision of the services required of the Provider under the terms of this Human Care Agreement.

F.18 Background Check

F.18.1 In accordance with DC Official Code 44-551 et seq., the Provider shall conduct routine pre-employment criminal record background checks of the Provider's applicable staff and future staff that will provide services under this Human Care Agreement. The Provider shall not employ any staff in the fulfillment of the work under this Human Care Agreement unless said person has undergone a background check, to include a National Criminal Information Center Report. Provider's staff shall not have any convictions relative to abuse or harming children, elders or animals, or any of the other offenses enumerated in the above statute.

F.18.2 After award of this Human Care Agreement, the Provider shall certify receipt of criminal history records, as described in C.8.1, of applicable Provider staff that performs services

under this Human Care Agreement to the Contract Administrator (CA). Any conviction or arrest of the Provider's employees will be reported through the (CA) to the Contracting Officer.

- F.18.3** ONSE/Office of Inspection and Compliance, which will determine the employee's suitability for performance under this Human Care Agreement. The criminal background check can be obtained at the Metropolitan Police Department by calling (202) 727-4245.
- F.18.4** The Provider shall disclose to ONSE, through the (CA), any arrests or convictions that may occur subsequent to employment. The (CA) will report any convictions or arrests of the Provider's employees to the ONSE Office of Inspection and Compliance, which will determine the employee's suitability for continued performance under this Human Care Agreement.
- F.18.5** The Provider shall certify receipt of medical clearance that each employee working this human care agreement is free of communicable diseases. A physician holding a valid license issued by the jurisdiction in which the employee is licensed shall sign the medical clearance. The Provider shall not employ any staff to perform work under this human care agreement unless the said employee has received a medical clearance.

F19. Fair Criminal Record Screening:

- (a) The Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (the "Act" as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.
- (b) Prior to making a conditional offer of employment, the Contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.
- (c) After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.
- (d) The Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.
- (e) This section and the provisions of the Act shall not apply:
 - (1) Where a federal or District law or regulation requires the consideration of an applicant's criminal history for the purposes of employment;
 - (2) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;
 - (3) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or
 - (4) To employers that employ less than 11 employees.

- (f) A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the Contractor.

F.20 Special Indemnity

The following provision supplements Section 10 of the Standard Contract Provisions:

The Provider shall indemnify and hold harmless the District and all its officers, agents and servants acting within the scope of their official duties against any and all assessments, fines or monetary penalties that may be imposed on the District by order or judgment of any court of competent jurisdiction, or required pursuant to the terms of a consent order, the Jerry M. Consent Decree or a consent agreement, as a consequence or result of any act, omission or default of the Provider, its employees, agents or subcontractors in the performance of, or in connection with, any work required or performed under this Human Care Agreement.

F.21 Order of Precedence Clause

Disputes regarding any inconsistency between this Agreement and other documents shall be resolved by giving precedence in the following order:

1. This Human Care Agreement, including the Provider's Qualifications Record completed by the Provider, service rates, and attachments and applicable documents incorporated herein or by reference.
2. Government of the District of Columbia Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts dated July 2010, located at www.ocp.dc.gov.
3. Task Orders or Purchase Orders

*****END OF SECTION F*****

SECTION G: SPECIAL HUMAN CARE AGREEMENT REQUIREMENTS

G.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

G.1.1 For all new employment resulting from this HCA or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Provider shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

G.1.1.1 At least fifty-one (51) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

G.1.2 The Provider shall negotiate an Employment Agreement with the Department of Employment Services ("DOES") for jobs created as a result of this HCA. The DOES shall be the Provider's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

G.2 PREGNANT WORKERS FAIRNESS

G.2.1 The Provider shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 *et seq.* (PPWF Act).

G.2.2 The Provider shall not:

(a) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the Provider can demonstrate that the accommodation would impose an undue hardship;

(b) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:

(1) Pay;

(2) Accumulated seniority and retirement;

(3) Benefits; and

(4) Other applicable service credits;

(c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;

(d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;

(e) Require an employee to take leave if a reasonable accommodation can be provided; or

(f) Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

G.2.3 The Provider shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to this chapter to:

(a) New employees at the commencement of employment;

(b) Existing employees; and

(c) An employee who notifies the employer of her pregnancy, or other condition covered by this chapter, within 10 days of the notification.

G.2.4 The Provider shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

G.2.5 Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

G.3 UNEMPLOYED ANTI-DISCRIMINATION

G.3.1 The Provider shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.*

G.3.2 The Provider shall not:

(a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or

(b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:

(1) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or

(2) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

G.3.3 Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

G.4 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

G.4.1 For HCA for services in the amount of \$300,000 or more, the Provider shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 *et seq.* (First Source Act).

G.4.2 The Provider shall enter into and maintain, during the term of the HCA, a First Source Employment Agreement, in which the Provider shall agree that:

a) The first source for finding employees to fill all jobs created in order to perform this HCA shall be DOES; and

b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

G.4.3 The Provider shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

G.4.4 The Provider agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

G.4.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.

- G.4.6** The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- G.4.7** If the Provider does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Provider fails to meet its hiring requirements.
- G.4.8** Any provider which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- G.4.9** The provider may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in clause 14, Disputes.
- G.4.10** The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.
- G.5** RESERVED
- G.6** RESERVED
- G.7** RESERVED
- G.8** **SUBCONTRACTING REQUIREMENTS**
- G.8.1** Mandatory Subcontracting Requirements
- G.8.1.1** Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing, for all contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (SBEs).
- G.8.1.2** If there are insufficient SBEs to completely fulfill the requirement of paragraph G.8.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.
- G.8.1.3** A prime provider that is certified by DSLBD as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections G.8.1.1 and G.8.1.2.
- G.8.1.4** Except as provided in G.8.1.5 and G.8.1.7, a prime provider that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime provider that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

G.8.1.5 A prime provider that is a certified joint venture and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime provider that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

G.8.1.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.

G.8.1.7 A prime provider that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.

G.8.2 Subcontracting Plan

If the prime provider is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section G.8.1 of this clause. The plan shall be submitted as part of the proposal and may only be amended after award with the prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan after award shall inure to the benefit of the District.

Each subcontracting plan shall include the following:

- (1) The name and address of each subcontractor;
- (2) A current certification number of the small or certified business enterprise;
- (3) The scope of work to be performed by each subcontractor; and
- (4) The price that the prime provider will pay each subcontractor.

G.8.3 **Copies of Subcontracts**

Within twenty-one (21) days of the date of award, the Provider shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the CO, CA, District of Columbia Auditor and the Director of DSLBD.

G.8.4 **Subcontracting Plan Compliance Reporting**

G.8.4.1 If the Provider has a subcontracting plan required by law for this contract, the Provider shall submit a quarterly report to the CO, CA, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

- (A) The price that the prime provider will pay each subcontractor under the subcontract;
- (B) A description of the goods procured or the services subcontracted for;
- (C) The amount paid by the prime provider under the subcontract; and
- (D) A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.

G.8.4.2 If the fully executed subcontract is not provided with the quarterly report, the prime provider will not receive credit toward its subcontracting requirements for that subcontract.

G.8.5 Annual Meetings

Upon at least 30-days written notice provided by DSLBD, the Provider shall meet annually with the CO, CA, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

G.8.6 Notices

The Provider shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

G.8.7 Enforcement and Penalties for Breach of Subcontracting Plan

G.8.7.1 A provider shall be deemed to have breached a subcontracting plan required by law, if the provider (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

G.8.7.2 A provider that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.

G.8.7.3 If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in clause 8 of the SCP, Default.

G.9 DISTRICT RESPONSIBILITIES

The District shall be responsible for the following:

G.9.8 Training the Provider's personnel on program requirements, ONSE policies, guidelines and processes.

G.9.9 Monitoring and evaluating the Provider's performance.

G.9.10 Modifying this HCA to comply with the federal and District Law

- G.9.12** Notifying the Provider whether it will receive a new task order from the District pursuant to this HCA
- G.9.13** Issuing guidelines for the content of the Provider’s orientation.
- G.9.14** Issuing compliance guidelines, sanction policies and procedures so the Provider understands when a Customer is non-compliant, when a sanction request should be made and the process that the Provider shall follow in making the sanction request.
- G.9.15** Issuing work participation guidelines that describe mechanisms that the Provider can use in order to help Customers meet the District’s work participation requirements as described in Section C
- G.9.16** Issuing exemption policies and procedures so the Provider understands when a request should be made and the process that the Provider shall follow in making the exemption request.
- G.9.18** Establishing benchmarks for the KPIs and defining additional performance metrics .
- G.10** ONSE will monitor the activities of the Provider to ensure that the Provider is meeting and complying with all applicable requirements outlined in Section C of this RFQ. ONSE will make scheduled and unscheduled monitoring visits to review records and discuss the scope of work in relation to the services being rendered. ONSE will interview Customers to secure their feedback on their overall experience and the quality of services they are receiving.
- G.10.1** Staff from the ONSE Office of Accountability will conduct a minimum of one annual monitoring review of the Provider. Additionally, the ONSE Office of Accountability will receive and investigate s and complaints related to the services provided by the Provider.
- G.10.2** For each of the stated anticipated outcomes in Table G.10.2.1, ONSE has defined one or more Key Performance Indicators (KPI) as described in the table below. Upon issuance of a task order, ONSE will publish performance benchmarks for each KPI. Established to reflect District and federal requirements, the performance benchmarks will be the same for all Providers regardless of the size of the Not-Employed PIT specified on the task order.

G.10.2.1: Key Performance Indicators

Anticipated Outcome	
Outcome #1 - Increase the number of Customers who meet work participation requirements	<p>Work participation rate for all Customers assigned to the Provider</p> <p>Work participation rate for the Provider’s Not-Employed Customers</p> <p>Work participation rate for the Provider’s Employed Customers</p>

Outcome #2 - Increase the number of Customers who gain employment and school/scholarship registration	Rate at which Customers become employed and/or gained a scholarship -school registration
Outcome #3 – Decrease in crime	Rate at which crime has decreased
Outcome #4 – Cease fires	Rate at which how many cease fires a quarter

- G.10.4** ONSE will also use the results of the quarterly Customer Satisfaction Survey described in Section C to evaluate the appropriateness, quality and effectiveness of the Providers' services.
- G.10.5** On a monthly basis, ONSE will measure and report and evaluate the Provider's performance by comparing the actual measurement against the performance benchmarks. On a quarterly basis, ONSE will include the results of the quarterly satisfaction survey in the evaluation of the Provider's performance.
- G.10.6** The District will undertake the following additional performance monitoring activities:
- G.10.7** The District will monitor, review, and document the timeliness and accuracy of the Provider's deliverables required in Section D.4; and
- G.10.8** The District will monitor, review, and document the accuracy and timeliness of the Provider's Customer information contained in each Customer's case files as required in Section C.5.6.6.
- G.10.9** The District will monitor, review, and document the completeness, accuracy and timeliness of the Provider's data entry in as required in Section C.5.6.5.12.8
- G.10.10** ONSE will randomly conduct on-site observations of the Provider's operations and activity to ensure they are in compliance with requirements in C.5.
- G.10.11** ONSE will create a quarterly performance evaluation report for the Provider that will include, but not be limited to, the performance metrics in Table C.6.2, results from the quarterly Customer Satisfaction Survey as outlined in Section C.5.10.4, key observations and issues identified while monitoring the Provider's activities as specified in Table C.6.2, and findings while conducting the monitoring.
- G.10.12** ONSE will discuss the performance evaluation report with the Provider's Program Director.
- G.10.13** If the performance evaluation report highlights deficiencies in performance, ONSE will provide the Provider with a notice of deficiency and a time for response and remediation. The Provider shall provide a written explanation of why the deficiency

occurred and propose a corrective action plan. ONSE will work with the Provider's Program Director to define a corrective action plan to improve the Provider's performance. ONSE will monitor the Provider to ensure that the Provider is executing the corrective action plan.

*****END OF SECTION G*****

H. Attachments

H.1 The following documents are incorporated to this RFQ by reference:

1. Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (July, 2010) available at www.ocp.dc.gov click on "OCP Solicitations" and "Required Solicitation Documents"
2. U.S. Department of Labor Wage Determination [No. 2015-4281, Revision No. 5, dated 03/17/17.](#)
3. Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85 available at www.ocp.dc.gov click on "OCP Solicitations" and "Required Solicitation Documents"
4. Department of Employment Services First Source Employment Agreement available at www.ocp.dc.gov click on "OCP Solicitations" and "Required Solicitation Documents"
5. Way to Work Amendment Act of 2006 - Living Wage Notice
6. Way to Work Amendment Act of 2006 - Living Wage Fact Sheet
7. Tax Certification Affidavit
8. Bidder/Offeror Certifications available at www.ocp.dc.gov click on "OCP Solicitations" and "Required Solicitation Documents"
9. Subcontracting Plan available at www.ocp.dc.gov click on "OCP Solicitations" and "Required Solicitation Documents"
10. Pricing Schedule

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated July 2010 ("SCP") are incorporated as part of the contract. To obtain a copy of the SCP go to www.ocp.dc.gov, click on OCP Policies under the heading "Information", then click on "Standard Contract Provisions – Supplies and Services Contracts".

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm or corporation, in accordance with the District and federal laws governing the confidentiality

of records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 RIGHTS IN DATA

Delete Article 42, Rights in Data, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Article 42, Rights in Data) in its place:

A. Definitions

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.
2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.
3. "Custom Products" - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.
4. "District" – The District of Columbia and its agencies.

B. Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the District to perform services detailed in the contract. The District shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall: (1) remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District is granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the District as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District's satisfaction) and distribute Existing Product to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose(s) of the project or work plan or contract; and (2) be licensed in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.
2. Custom Products: Effective upon Product creation, Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. Contractor

hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor.

C. Transfers or Assignments of Existing or Custom Products by the District

The District may transfer or assign Existing or Custom Products and the licenses thereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of Contractor's business.

D. Subcontractor Rights

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, **Rights in Data**, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

E. Source Code Escrow

1. For all computer software furnished to the District with the rights specified in section B.2, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above, and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.6 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District contractor or by any District employee.

I.7 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.9 CONTRACTOR'S PROPERTY.

Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia

I.10 MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

I.11 NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.

ORDER OF PRECEDENCE

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- An applicable Court Order, if any
- HCA document
- Standard Contract Provisions
- Contract attachments other than the Standard Contract Provisions
- HCA Solicitation, as amended
- BAFOs (in order of most recent to earliest)
- Contractor Application/Proposal
-

I.12 Contracts in Excess of One Million Dollars. Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.

I.13 Governing Law. This contract, and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

I.14 CONTINUITY OF SERVICES

I.15 The Contractor recognizes that the services provided under this contract are vital to the District and must be continued without interruption and that, upon contract

expiration or termination, a successor, either the District or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

- I.16 Furnish phase-out, phase-in (transition) training; and
- I.17 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
- I.18 The Contractor shall, upon the CO's written notice:
- I.19 Furnish phase-in, phase-out services for up to 90 days after this contract expires and
- I.20 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the CO's approval.
- I.21 The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.
- I.22 The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.
- I.23 Only in accordance with a modification issued by the Contracting Officer, the Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

*****END OF SECTION I*****

SECTION J

N/A

*****END OF SECTION J*****

SECTION K

N/A

*****END OF SECTION K*****

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 Qualification of Contractors and Award of HCAs

- L.1.1.** The District intends to pre-qualify Contractors and award multiple HCAs (HCA) resulting from this request for qualifications based upon the Contracting Officer's determination that the award is in the best interest of the District, considering the service Contractor's qualifications, its capability of providing the services, including financial and professional responsibility, and a judgment that the price is reasonable.
- L.1.2.** The determination that a Contractor is technically qualified and capable of providing the services will be based primarily upon approval of the documents requested and timely submission.
- L.1.3.** An approved Contractor by OCP will place Contractors on a **qualification list** deemed, eligible for up to three (3) years to be referred for selection by individuals supported by OCP.
- L.1.4.** The District will **only** enter into final negotiations to award a HCA when (a) a person supported by OCP has selected that approved OCP; (b) the proposed has been certified as meeting the designated community and/or activities (c) for any new locations, that it is fully compliant and approved by the District.
- L.1.5.** The District may award a HCA on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Contractor's best terms from a standpoint of cost or price, technical and other factors.

L.2 Proposal Organization and Content

- L.2.1.** This solicitation will be conducted electronically using the District's Ariba E-Sourcing system. To be considered, an offeror must submit the required attachments via the Ariba E-Sourcing system before the closing date and time. Paper, telephonic, telegraphic, and email proposals may not be accepted.
- L.2.2.** All attachments shall be submitted as a .pdf file. The District will not be responsible for

corruption of any file submitted. If the submitted file cannot be viewed and printed as submitted, it will not be considered.

L.2.3. The Offeror shall submit:

- L.2.3.1** The signed HCA application and any amendments issued,
- L.2.3.2** Articles of Incorporation;
- L.2.3.3** Brief program description or reference to the company's active website;
- L.2.3.4** Fiscal responsibility document (See L.5.3);
- L.2.3.5** Bidder/Offeror Certification Form
- L.2.3.6** W-9;
- L.2.3.7** Business License; and
- L.2.3.8** Proposed Price List or evidence of prices approved by the jurisdictions rate approving authority

L.2.4. Please note that each attachment is limited to a maximum size of 25 MB.

L.2.5. The Offeror shall label each attachment

L.2.6. By signing the HCA application, the Offeror attests that it fully meets the requirements in Section C.

L.2.7. The bidders shall complete, sign and submit all Representations, Certifications and **Acknowledgments as appropriate.**

L.3 REQUIREMENT FOR AN ELECTRONIC COPY OF PROPOSALS TO BE MADE AVAILABLE TO THE PUBLIC

In addition to the proposal submission requirements in Section L.2 above, the Offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure under D.C. Official Code §2-534. Redacted copies of the offeror's proposal must be submitted by e-mail attachment to the contact person designated in the solicitation. D.C. Official Code §2-536(b) requires the District to make available electronically copies of records that must be made public. The District's policy is to release documents relating to District proposals following award of the contract, subject to applicable FOIA exemption under §2-534(a)(1). Successful proposals will be published on the OCP Internet in accordance with D.C. Official Code §2-361.04, subject to applicable FOIA exemptions.

L.4 PROPOSAL SUBMISSION DATE AND TIME AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS

L.4.1 Proposal Submission Date and Time and Late Submissions

L.4.1.1 Proposals must be fully uploaded into the District's E-Sourcing system no later than the closing date and time specified in the Doc issued in ARIBA. The system will not allow late proposals, modifications to proposals, or requests for withdrawals after the exact closing date and time.

L.4.1.2 Paper, telephonic, telegraphic, and email proposals may not be accepted or considered for award.

L.4.1.3 It is solely the offeror's responsibility to ensure that it begins the upload process in sufficient time to get the attachment uploaded into the District's E-Sourcing system

before the closing time. **(PLEASE NOTE: DO NOT USE MICROSOFT INTERNET EXPLORER VERSION 9 TO UPLOAD THE ATTACHMENTS).**

L.4.2 Late Modifications

A late modification of a successful proposal, which makes its terms more favorable to the District, shall be considered at any time it is received and may be accepted.

L.4.3 Withdrawal or Modification of Proposals

An offeror may modify or withdraw its proposal via the District's E-Sourcing system at any time before the closing date and time for receipt of proposals.

L.4.4 Late Proposals

The District's E-Sourcing system will not accept late proposals or modifications to proposals after the closing date and time for receipt of proposals.

L.5 EXPLANATION TO PROSPECTIVE OFFERORS

L.5.1 If a prospective offeror has any questions relating to this solicitation, the prospective offeror shall submit the question electronically via the District's E-Sourcing system's instructions. The prospective offeror should submit questions no later than *five (5)* days prior to the closing date and time indicated for this solicitation. The District may not consider any questions received less than *five (5)* days before the date set for submission of proposals. The District will furnish responses via the District's E-Sourcing system's messaging process. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial to any prospective offeror. Oral explanations or instructions given by District officials before the award of the contract will not be binding.

L.5.2 Contractors shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services delivery thereof. The information requested below shall facilitate evaluation and best value source selection for all applications. The data provided by the Contractor must contain sufficient detail to provide a clear and concise representation of the Contractor's capability to provide the requirements as set forth in Section C. In addition, except as provided in L.12 below, the application shall include, the following:

L.5.3 Evidence of fiscal responsibility that may include filed tax returns, audited financial statements, statements of cash flow verified by a licensed CPA or lines of credit from a commercial financial institution. The financial statements shall be prepared by an independent third party certified professional auditor that is experienced in the audit of commercial financial statements. Acceptable evidence of fiscal responsibility must be verifiable and accepted at the discretion of the contracting officer.

L.5.4 Criminal background checks or professional licenses for those individuals identified as key personnel, including all principals, officers and individuals in positions designated to serve administrative functions. In this instance, administrative functions specifically refer to those individuals that will interface with the District and conduct business regarding the Contractor's organization in the name of the organization.

L.5.5 *Complete written job descriptions covering all positions within the Contractor's program. Job descriptions shall include education, experience and/or licensing certification criteria, description of duties and responsibilities, hours of work, salary range and performance evaluation criteria.

- L.5.6 *Documentation that each staff person possesses adequate training, qualifications and competence to perform their assigned duties.
- L.5.7 *Resumes of work experience and personal references for key personnel.
- L.5.8 Contractor shall submit a draft Continuity of Operations Plan (COOP) as part of a Comprehensive Emergency Management Program using a comprehensive planning process based on federal guidance and best practices in emergency management and continuity planning in accordance with OCP COOP policy published on the OCP Internet website.
- L.5.9 *At least one (1) relevant references or letters of support. References must include government or private organizations that referred individual(s) to whom services have been provided, or the legal guardians of individual(s) to whom services have been provided.
- L.5.10 *Demonstrated evidence of ability to support new developments to expand service delivery within its capability as determined by the persons' needs, including services for medically fragile persons, persons with autism spectrum disorder and/or dual diagnosis.
- L.5.11 Contractors that are not SBEs or whose HCA is expected to exceed \$250,000.00 shall make good faith efforts and submit a subcontracting plan.

L.6 Signing of Offers

The Offeror shall sign the offer and print or type its name on the Solicitation, Offer and Award form of this solicitation. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer

L.7 Retention of HCA Applications

All application documents will be the property of the District and retained by the District, and therefore will not be returned to the Contractor.

L.8 Proposal Costs

The District is not liable for any costs incurred by the Offerors in submitting proposals in response to this solicitation.

L.9 Certificates of Insurance

Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages as specified in Section F.13 to the Contracting Officer.

L.10 Acknowledgement of Amendments

The Contractor shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; or (b) by letter or email. The District must receive the acknowledgment by the date and time specified for receipt of applications. Contractors' failure to acknowledge an amendment may result in rejection of the application.

L.11 Familiarization with Conditions

Offerors shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties that may be encountered, and the conditions under which the work is to be accomplished. Contractors will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required

herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.12 General Standards of Responsibility

The prospective contractor must demonstrate to the satisfaction of the District its capability in all respects to perform fully the contract requirements; therefore, the prospective contractor must submit documentation not listed in Section L.2, within five (5) days of a request for additional supporting documentation by the District:

- (1) Evidence of adequate financial resources to perform the contract or the ability to obtain those resources;
- (2) Evidence of ability to comply with the required or proposed delivery or performance schedule, based upon its existing commercial and government contract commitments;
- (3) Evidence of a satisfactory performance record;
- (4) Evidence of a satisfactory record of integrity and business ethics;
- (5) Evidence of a satisfactory record of compliance with the law, including labor and civil rights laws and rules and part A of subchapter X of Chapter 2 of this title;
- (6) Evidence of the necessary organization, experience, accounting, operational control, and technical skills; or evidence of the ability to obtain such.
- (7) Evidence of the necessary production, construction, technical equipment, and facilities; or evidence of the ability to obtain such.
- (8) Evidence that it has not exhibited a pattern of overcharging the District;
- (9) Evidence that it does not have an outstanding debt with the District or the federal government in a delinquent status, including evidence of compliance with applicable District licensing and tax laws and regulations.
- (10) Evidence that it is otherwise qualified and is eligible to receive an award under applicable laws and rules.

If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be non-responsible.

*****END OF SECTION L*****

SECTION M

N/A; Determination is incorporated in Section L

*****END OF SECTION M*****

ATTACHMENT I

PATHWAYS

PRICE SCHEDULE – FIRM FIXED PRICE

Base Year

CLIN	DESCRIPTION	TOTAL PRICE
0001 C.5	<i>Transformative Mentoring services</i>	
0002 C.3	<i>Administrative costs</i>	
0002a C.3	<i>On-boarding costs</i>	
0003 C.3	<i>Key Personnel/Staff</i>	
Grand Total Not-to-Exceed (NTE)		

Option Period One

CLIN	DESCRIPTION	TOTAL PRICE
1001 C.5	<i>Transformative Mentoring services</i>	
1002 C.3	<i>Administrative costs</i>	
1002a C.3	<i>On-boarding costs</i>	
1003 C.3	<i>Key Personnel/Staff</i>	

Grand Total Not-to-Exceed (NTE)	
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Option Period Two

CLIN	DESCRIPTION	TOTAL PRICE
2001 C.5	<i>Transformative Mentoring services</i>	
2002 C.3	<i>Administrative costs</i>	
2002a C.3	<i>On-boarding costs</i>	
2003 C.3	<i>Key Personnel/Staff</i>	
Grand Total Not-to-Exceed (NTE)		

Option Period Three

CLIN	DESCRIPTION	TOTAL PRICE
3001 C.5	<i>Transformative Mentoring services</i>	
3002 C.3	<i>Administrative costs</i>	
3002a C.3	<i>On-boarding costs</i>	
3003 C.3	<i>Key Personnel/Staff</i>	

Grand Total Not-to-Exceed (NTE)	
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Option Period Four

CLIN	DESCRIPTION	TOTAL PRICE
4001 C.5	<i>Transformative Mentoring services</i>	
4002 C.3	<i>Administrative costs</i>	
4002a C.3	<i>On-boarding costs</i>	
4003 C.3	<i>Key Personnel/Staff</i>	
Grand Total Not-to-Exceed (NTE)		

*****NOTHING FOLLOWS ON THIS PAGE *****