

K24-211

PROFESSIONAL SERVICES AGREEMENT

BY AND BETWEEN

THE CITY OF NEW ORLEANS

AND

THE ORLEANS PARISH SHERIFF'S OFFICE

AND

WEXFORD HEALTH SOURCES, INC.

COMPREHENSIVE CORRECTIONAL HEALTH SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT (the "**Agreement**") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "**City**"), the Orleans Parish Sheriff's Office, represented by the Honorable Susan Hutson, Sheriff (the "**OPSO**"), and Wexford Health Sources, Inc, represented by John M. Froehlich, Senior Vice President & Chief Financial Officer ("**Wexford**" or the "**Contractor**"). The City, OPSO, and the Contractor may sometimes each be referred to as a "**Party**," and collectively, as the "**Parties**." The Agreement is effective as of June 1, 2024 (the "**Effective Date**").

RECITALS

WHEREAS, on September 18, 2023, the City issued request for proposals No. 3525 on behalf of the OPSO seeking a qualified contractor to provide comprehensive correctional health services for the OPSO;

WHEREAS, seven (7) addenda were issued in conjunction with the City's request including but not limited to, Addendum No. 3 dated October 4, 2023, which extended RFP No. 3525's deadline from October 4, 2023, to October 24, 2023;

WHEREAS, due to a technical issue, the deadline in the City's requisition system ("**BRASS**") was not extended, and RFP No. 3525 closed prematurely, thus requiring the City to issue Addendum No. 5 dated October 11, 2023, for the purpose of creating a new request number, RFP No. 3619;

WHEREAS, notwithstanding the City having to renumber RFP No. 3525 to RFP No. 3619, the request, including without limitation, all information contained therein and all documentation attached thereto, remained unchanged;

WHEREAS, RFP No. 3525, which became RFP No. 3619, and all addenda issued in conjunction with the foregoing, contain the services and obligations that the Contractor shall be required to perform during the term of this Agreement (the "**RFP**")

WHEREAS, the Contractor submitted a technical proposal (the "**Technical Proposal**") and a cost proposal (the "**Cost Proposal**") both dated November 2, 2023, in response to the RFP;

WHEREAS, the City selected the Contractor to provide the comprehensive correctional health services described in the RFP.

NOW THEREFORE, the City, the OPSO, and the Contractor agree as follows:

ARTICLE I - THE CONTRACTOR'S OBLIGATIONS

A. **Services.** The Contractor and all subcontractors, including without limitation all other medical and mental health providers who the Contractor contracts or partners with to perform the services and obligations in accordance with the schedule approved by the City, shall:

1. Perform all services and obligations as set forth in following documents:
 - a. The RFP, including without limitation, those services enumerated in the Statement of Needs section of the RFP (*i.e.*, Attachment "A" to the RFP), provided, however, that the Contractor shall not be required to perform the services requested in Statement of Needs Section 8.1.2 Quality Management of Medication Administration. The RFP is attached separately and fully incorporated herein as Exhibit "A".
 - b. The Technical Proposal, which is attached separately and fully incorporated herein as Exhibit "B".
 - c. The Cost Proposal, which is attached separately and fully incorporated herein as Exhibit "C".
 - d. The Consent Judgment, entered on June 6, 2013, in *Jones v. Hutson*, 12-cv-859, ECF No. 466 (the "**Consent Judgment**"), which is attached separately and fully incorporated herein as Exhibit "D". The Contractor agrees and acknowledges that any additional court orders in *Jones v. Hudson*, issued after the Effective Date, which address medical and mental healthcare, will automatically be incorporated into and made a part of Exhibit "D" without the need for an additional amendment.
2. Provide OPSO, the Consent Judgment Monitors, Consent Judgment Plaintiff Class, and representatives of the United States Department of Justice and United States District Court for the Eastern District of Louisiana with full and unrestricted access to any and all documents related to the Consent Judgment, including but not limited to notes, or other records reviewed or generated in the course of preparing for and/or conducting morbidity and mortality reviews, including clinical reviews, administrative reviews, psychological autopsies, corrective action plans, and root cause analysis in accordance with the terms of the Consent Judgment adopted and incorporated herein.
3. Submit complete and accurate invoices, maintain records, submit to audits and inspections, maintain insurance, and perform all other obligations of the Contractor as set forth in this Agreement;
4. Promptly correct any errors or omissions and any work deemed unsatisfactory or unacceptable by the City, all at no additional compensation;
5. Monitor, supervise, and otherwise control and be solely responsible for all persons performing work on its behalf;
6. Perform all requirements set forth in La. R.S. 38:2192, including, without limitation, the payment of any associated costs, and submit a copy of any recorded documents to the City within 30 days after the approval of the associated plan change or amendment; and

7. Cooperate with the City, the OPSO and any person performing work for the City or OPSO, including without limitation, any contract monitor hired by the City to oversee this Agreement and/or the Consent Decree. The Contractor, its subcontractor(s) (e.g., LSUHSC-NO), and/or any other person performing work on the Contractor's behalf, agree to meet at least monthly and provide all reports and any additional information requested in a timely and complete manner.

8. **Miscellaneous Treatment Services.** The Parties acknowledge and agree that one of the major risk factors for overdoses in the U.S. is recent incarceration. To ensure that the Contractor is using the latest evidence-based standards and treating patients in accordance all Consent Judgment requirements, the Contractor, its subcontractor(s), and any person performing work on its behalf, shall perform all work under this Agreement during the term of this Agreement and otherwise in accordance with the following terms and conditions. Nothing in this Agreement shall obviate the need for the Contractor to perform the services and obligations requested in the RFP and/or proposed in the Contractor's Proposal.

a. Regulatory.

- i. If methadone is administered at the facility, the Contractor shall work with the opioid treatment program ("OTP") that provides the medication to ensure that all federal and state regulations are met.
- ii. The Contractor shall otherwise ensure that normal controlled substance policy is followed at the facility when storing and distributing Medications for Opiate Use Disorder ("MOUD") / Medication-Assisted Treatment ("MAT") medications.

b. Screening and Diagnosis.

- i. The Contractor shall administer comprehensive substance use screening(s) to all inmates, with specific questions about opioids and MAT medications, as soon as feasible, or urgently if withdrawal is suspected, but in any event in accordance with the Consent Judgment, OPSO policies, and applicable National Commission of Correctional Health Care ("NCCHC") and American Correctional Association ("ACA") accreditation standards.
- ii. The Contractor shall use at least one of the following: 1) self-report; 2) objective medication reconciliation; 3) urine drug screen (if applicable); and 4) physical exam, to diagnose substance use disorder ("SUD") using DSM-5 criteria.
- iii. The Contractor shall use validated withdrawal scales, such as the Clinical Opiate Withdrawal Scale ("COWS") and/or the Clinical Institute Withdrawal Assessment ("CIWA"), to assess initial withdrawal and monitor progress.
- iv. The Contractor recognizes that the initial screening may be missing some patients who can benefit from MAT. As such, the Contractor shall continue to provide quarterly routine screenings, while also continuing to collect information from its healthcare staff, OPSO's staff, and/or self-reports.

c. Treatment.

- i. The Contractor shall provide education on the risks and benefits of treatment of withdrawal and SUD, including information on alternative treatments and the risk of no treatment at all.
- ii. The Contractor shall provide treatment that involves judicious consideration of all available medications for SUD and opiate use disorder ("OUD").
- iii. The Contractor acknowledges and agrees that individuals needing treatment for SUD/OUD shall be given the option to have the version of MAT that the healthcare provider and the individual determine to be the most effective medication in terms of treating withdrawal symptoms and the underlying SUD.
- iv. The Contractor agrees to offer three (3) forms of MAT (buprenorphine, methadone, and naltrexone) and report the number of individuals who initiated, continued, changed, and/or discontinued MAT medications monthly.
- v. The Contractor acknowledges and agrees that treatment decisions shall be made between the healthcare provider and the patient. The Parties agree and acknowledge that treatment decisions shall not involve any loss or gain of privileges depending on choices. Likewise, Parties agree and acknowledge that treatment decisions shall not be influenced by disciplinary actions unless those involve medication diversion.
- vi. Any decision to terminate, reduce the dosage, or change a patient's MAT medication must come from the healthcare provider in consultation with the patient (not from custodial or non-medical staff). The Contractor acknowledges and agrees that there must be a medically justifiable and patient-specific reason to change or discontinue MAT medications, and any changes shall be documented and reported monthly.
- vii. Treatment shall weigh the potential medical benefit against drawbacks and consider the patient's well-being upon release.
- viii. Treatment decisions shall consider the patient's likely disposition and the availability of MAT in that setting.
- ix. Patients who enter incarceration taking a MAT medication shall be maintained on the same medication and dose whenever feasible.
- x. The Contractor may consider initiating MAT for patients who are not currently taking MAT but could benefit from it either for withdrawal management or because they are at high risk of relapse upon release.
- xi. The Contractor shall use a validated withdrawal scale and evidence-based guidelines prior to the first dose of MAT to minimize the chance of precipitated withdrawal.

- xii. MAT dosing shall be titrated to achieve an effective dose as rapidly as possible.
- xiii. The administration of MAT medications shall balance the health benefits of MAT to the patient with the security requirements and availability of custodial staff.
- xiv. MAT medication shall not be immediately withdrawn except in outstanding circumstances, because cessation of MAT medications can cause severe withdrawal. There shall be no forced withdrawal from MAT medication unless it is medically justified, and the patient agrees.
- xv. A pregnant inmate shall not be withdrawn from the MAT medication she is receiving prior to giving birth, when giving birth, or after giving birth, unless there is a medical justification to do so, and the patient agrees.

d. Safety.

- i. OPSO and the Contractor shall collaborate to minimize diversion of MAT medications. Normally, this will consist of the Contractor's healthcare staff administering the medication and OPSO's custodial staff monitoring patients for diversion.
- ii. Storage and administration of MAT medications shall follow all federal, state, and facility guidelines for controlled substances.
- iii. The Contractor's healthcare staff shall be familiar with the common contraindications and adverse reactions to MAT medications as well as the signs and symptoms of withdrawal, and common treatments for all the preceding issues.
- iv. Naloxone shall be made available to all OPSO correctional staff and Contractor's staff to administer to all jail detainees, as needed, not just those at risk for opioid use or other behavioral health disorders. The Contractor shall assist with training OPSO's correctional staff to administer naloxone.
- v. For any subcontractor performing work under this Agreement, including without limitation, the work performed under the Contractor's exclusive partnership with LSUHSC-NO, the Contractor shall not substitute interns, residents, or medical students for the Full-time equivalents ("FTEs") required by the Agreement's staffing matrix. The Contractor agrees and acknowledges that the work performed through this Agreement shall be delivered by attending physicians or fellows (*i.e.*, completed residency). Medical residents shall not provide care to jail residents unless explicitly authorized by the City as detailed herein. No sooner than three (3) months following the Effective Date of this Agreement, the Contractor may submit a written request to the City with justification as to why its subcontractor's medical residents should be allowed to provide care under the Agreement. At a minimum, the Contractor's request must include details as to how the Contractor will

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ensure compliance with all Accreditation Council for Graduate Medical Education (“ACGME”) program requirements for providing care to the OPSO patient population, and how the psychiatry residents will enhance the Contractor’s services. The City, in its sole discretion, will provide a written response to the Contractor’s request within fourteen (14) days of receiving said request. In the event the City accepts the Contractor’s request, the City may elect to implement the change without the need for a formal amendment pursuant to Article XIV Section A.

e. Counseling.

- i. The Contractor shall make SUD counseling available at the facility to all patients on MAT who desire it.
- ii. The Contractor may take counseling attendance into account when determining whether ongoing MAT therapy is appropriate for a patient.
- iii. The lack of counseling capacity shall not preclude a patient from receiving MAT; The Contractor acknowledges that counseling and medication work independently but synergistically.
- iv. Counseling shall consist of an evidence-based intake, individual or group counseling, and linkage to counseling upon release.
- v. Individuals diagnosed with behavioral conditions other than SUD will be linked to psychiatric care and treatment.

f. Linkage to Care.

- i. The Contractor will ensure continuity of medical care for ALL inmates released from OJC (*i.e.*, not just inmates on MAT medications), including but not limited to, any inmate who enrolled in Medicaid services pre-release (when applicable) by: 1) assisting inmates in identifying a post-release primary care clinic, or primary care physician (“PCP”); 2) providing ALL necessary prescriptions at discharge, including MAT, to cover the length of time until a PCP appointment can be secured; and 3) providing detailed discharge instructions and a warm handoff to other providers.
- ii. Connection to outpatient MAT treatment can be a crucial aspect of a correctional healthcare MAT program. When applicable, the Contractor will use its reasonable best efforts to identify high-quality outpatient treatment providers, link patients with treatment immediately upon release, and improve the quality and duration of follow-up care.
- iii. Discharge planning will consider psychosocial barriers to treatment follow-up, including transportation and insurance. When possible, discharge planning will attempt to provide medical records to outpatient healthcare providers given the proper release of information.
- iv. Electronic Health Records (“EHR”) shall be compatible with the local Health Information Exchange (“HIE”) so that clinics can see records of patients post-release.

- v. The Contractor shall assist with provision of naloxone kits and a fentanyl test strips to all inmates prior to release, in accordance with the operational plan mutually agreed to by the Contractor and the OPSO

B. Standards. The Contractor, and any person performing work on its behalf, will perform all work under this Agreement in accordance with any and all applicable professional standards.

C. Compliance with Laws. The Contractor, and any person performing work on its behalf, will comply with all applicable federal, state, and local laws, regulations, and ordinances.

D. Schedule.

1. The Contractor will perform all work under this Agreement during the term of this Agreement and otherwise in accordance with a schedule that the Contractor will submit to the City and the OPSO reasonably promptly following the execution of this Agreement, but in any event, no later than fourteen (14) days after the Effective Date.

- a. A schedule arranged so actual progress and achievements can be shown as work is completed with respect to the transition, implementation, and full operation of the Contractor's services and obligations. The Contractor acknowledges and agrees that time is of the essence in the performance of this Agreement.

E. Invoices.

1. The Contractor must submit invoices monthly (unless agreed otherwise between the Parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include the following information:

- a. Name of Contractor;
- b. Date of Invoice;
- c. Invoice Number;
- d. Contract or BRASS Number issued by the City (*i.e.*, K#);
- e. Name of the City Department to be invoiced (*i.e.*, Chief Administrative Office);
- f. Description of the Services completed; and
- g. FEMA or HUD Project Number (*i.e.*, PW#), if applicable.

2. Invoices will be processed in accordance with Article III Section B of the Agreement.

3. All invoices must be signed by an authorized representative of the Contractor under penalty of perjury attesting to the validity and accuracy of the invoice.

4. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

F. Records and Reporting.

1. The Contractor shall include in a monthly reports to the City: (a) the number and percentage of new people entering custody who are screened for OUD; (b) how many hours after entering custody each person was screened for OUD; (c) the number of people on each version of MAT medication at OJC that month; (d) for each person given MAT at OJC that month, a breakdown of how long after being screened for OUD and how long after being prescribed the MAT, the medication was administered; (e) the total number of people released from OJC that month who were (and were not) provided linkage to care as defined in Article I, Section A. 8. f.; and (f) provide the length of time between the release and appointment date for all individuals who have an appointment scheduled with a healthcare provider upon release.

2. The Contractor will maintain all books, documents, papers, accounting records, invoices, materials records, payrolls, work papers, personnel records, and other evidence pertaining to the performance of services under this Agreement, including, without limitation, of costs incurred through the later of 3 years from: (a) the completion of this Agreement (including any renewal or extension periods); or (b) from the resolution of any disputes relating to the Agreement. If this Agreement is terminated for any reason, the Contractor will deliver to the City all plans and records of work compiled through the date of termination, and the Contractor shall implement an orderly return of the City's data in a CSV or another mutually agreeable format at a time agreed to the by the Parties.

3. The Contractor will identify any reporting requirements, including the frequency, methods, and contents.

4. The Contractor is solely responsible for the relevance and accuracy of all items and details included in any reports relating to the work performed under this Agreement, regardless of any review by the City.

G. Audit and Inspection.

1. The Contractor will submit to any City audit, inspection, and review and, at the City's request, will make available all documents relating or pertaining to this Agreement maintained by or under the control of the Contractor, its employees, agents, assigns, successors, and subcontractors, during normal business hours at the Contractor's office or place of business in Louisiana. If no such location is available in Louisiana, the Contractor will make the documents available at a time and location that is convenient for the City.

2. The Contractor will abide by all provisions of City Code Section 2-1120, including, but not limited to, City Code Section 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

H. Insurance.

1. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

2. If the Contractor maintains broader coverage and/or higher limits than the minimums shown below, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

a. Minimum Requirements:

- i. Commercial General Liability ("CGL"): including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, abuse and molestation, and any other type of liability for which this Agreement applies with limits of liability of not less than \$2,000,000 each occurrence / \$4,000,000 policy aggregate.
- ii. Worker's Compensation & Employers Liability Insurance: in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$500,000.
- iii. Professional Liability (Medical Malpractice): appropriate to the Contractors profession with limits of liability of not less than \$3,000,000 per occurrence or claim / \$6,000,000 policy aggregate. Coverage shall be sufficiently broad providing coverage against claims which the Contractor becomes legally obligated to pay as damages arising out of the performance of professional services in this agreement.
- iv. Automobile Liability Insurance: with a combined single limit of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.
- v. Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.
- vi. Umbrella/Excess Liability: Umbrella/Excess policies must Follow Form of the underlying policies.
- vii. Contractors shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.
- viii. The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations.
- ix. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractors obligations and/or Scope of Work. Contractor shall be responsible for any losses,

expenses, damages, claims and/or suits of any kind which exceed the Contractors limits of liability that arise from the performance of work under the Agreement.

b. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- i. Additional Insured Status. The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement. General liability insurance coverage can be provided in the form of an endorsement to the Contractors insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-contractor liability shall be covered by the Contractor. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to (User Department Mailing Address), with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

The Additional Insured box shall be marked "Y" or Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

- ii. Primary Coverage. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractor's coverage.
- iii. Claims Made Policies. If applicable, the retroactive date must be shown and must be before the date of the contract or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase "extended reporting" coverage for minimum of 3 years after the termination of this Agreement.
- iv. Waiver of Subrogation. **The Contractor and its insurers agree to waive any right of subrogation** which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this Agreement.

- v. Notice of Cancellation. Each insurance policy required above, except for Professional Liability, shall not be canceled, expire, or altered except without prior notice to the City of no less than 30 days.
- vi. Acceptability of Insurers. Insurance is to be placed with **insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less than A:VII**, unless otherwise acceptable to the City.

3. The Contractor will provide the City's Risk Manager at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: Wexford Health Sources, Inc.) the following documents, within 10 calendar days of the City's request:

- a. Copies of all policies of insurance, including all policies, forms, and endorsements.

4. Without notice from the City, the Contractor will:

- a. Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;
- b. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement; and
- c. Notify the City's Risk Manager in writing within 48 hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement.

5. Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

I. Indemnity.

1. **In General.** To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless OPSO and the City, their agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life, injury, or damage to persons or property arising from or relating to any act, conduct, misconduct, or omission, or the operations of the Contractor, its agents, subcontractors, employees, or independent contractors, while engaged in or in connection with the discharge or performance of any work under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Agreement.

2. **Limitation.** The Contractor's indemnity does not extend to any loss arising from the negligence, gross negligence, or willful misconduct of any of the Indemnified Parties, provided that neither the Contractor nor any of its agents, subcontractors, or employees contributed to such negligence, gross negligence, or willful misconduct.

3. **Independent Duty.** The Contractor has an immediate and independent obligation to, at the City's option: (a) defend the City and/or OPSO from or (b) reimburse the City for any costs incurred in the defense of any and all claims that actually or potentially fall within this indemnity, even if: (i) the allegations are or may be groundless, false, or fraudulent; or (ii) the Contractor is ultimately absolved from liability, If the City and/or OPSO choose to represent their own interests in any such action, their representation must not prejudice the Contractor's right to control the defense of the claim and negotiate its settlement or compromise), and the City and/or OPSO must reasonably cooperate with the Contractor to facilitate the settlement or defense of the claim.

4. **Expenses.** Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorneys' fees, lay and expert witness fees, court costs, and any similar expenses, incurred by the City in enforcing this indemnity.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

A. The Contractor represents and warrants to the City that:

1. The Contractor, through its duly authorized representative, has the full power and authority to enter into and execute this Agreement;

2. The Contractor has and will maintain the requisite expertise, qualifications, staff, materials, equipment, licenses, permits, consents, registrations, and certifications in place and available for the performance of all work required under this Agreement;

3. The Contractor is bonded, if required by law, and fully and adequately insured for any injury or loss to its employees and any other person resulting from the actions or omissions of the Contractor, its employees, or its subcontractors in the performance of this Agreement;

4. The Contractor is not under any obligation to any other person that is inconsistent or in conflict with this Agreement, or that could prevent, limit, or impair the Contractor's performance of this Agreement;

5. The Contractor has no knowledge of any facts that could prevent, limit, or impair the performance of this Agreement, except as otherwise disclosed to the City and incorporated into this Agreement;

6. The Contractor is not in breach of any federal, state, or local statute, regulation, or code applicable to the Contractor or its operations;

7. Any rate of compensation charged for the performance of services under this Agreement are no higher than those charged to the Contractor's most favored customer for the same or substantially similar services;

8. The Contractor has read and fully understands this Agreement, and is executing this Agreement willingly and voluntarily; and

9. All of the representations and warranties in this Article and elsewhere in this Agreement are true and correct as of the date of execution of this Agreement by the Contractor, and the execution of this Agreement by the Contractor's representative constitutes a sworn statement, under penalty of perjury, by the Contractor as to the truth of the foregoing representations and warranties.

B. Convicted Felon Statement. The Contractor complies with City Code Section 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

C. Non-Solicitation Statement. The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

ARTICLE III - THE CITY'S OBLIGATIONS

A. Administration. In addition to the obligations outlined in the RFP, the City will:

1. Administer this Agreement through the Chief Administrative Office (the "Department");
2. Provide the Contractor any documents mutually identified as reasonable and necessary for the Contractor's performance of any work required under this Agreement;
3. Provide reasonable access to Department personnel to discuss the required services during normal working hours, as requested by the Contractor;
4. Comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any state health information privacy laws, to the extent they are applicable.

B. Payment. The City will make payments to the Contractor at the rate of compensation established in this Agreement based upon the Contractor's certified invoices, except:

1. The City's obligation to pay is contingent upon the Contractor's: (a) submission of complete and accurate invoices; and (b) satisfactory performance of the services and conditions required by this Agreement;
2. The City, in its discretion, may withhold payment of any disputed amounts, and no interest shall accrue on any amount withheld pending the resolution of the dispute;
3. The City may set-off any amounts due to the Contractor with any amounts deemed by the City to be owed to the City by the Contractor pursuant this Agreement; and
4. All compensation owed to the Contractor under this Agreement is contingent upon the appropriation and allocation of funds for work under this Agreement by the City.
5. The City is not obligated, under any circumstances, to pay for any work performed or costs incurred by the Contractor that: exceed the maximum aggregate amount payable established by this Agreement; are beyond the scope or duration of this Agreement; arise from or relate to any unauthorized change order within the scope of the Agreement; are for services performed on days on which services were suspended due to circumstances beyond the control of the City, and no work has taken place; arise from or relate to the correction of errors or omissions of the Contractor or its subcontractors; or the City is not expressly obligated to pay under this Agreement.
6. Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed

(if required), rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City's supplier portal.

7. If this Agreement is terminated for any reason, the City will pay the Contractor only for the work requested by the City and satisfactorily performed by the Contractor through the date of termination, except as otherwise provided in this Agreement.

ARTICLE IV - THE OPSO'S OBLIGATIONS

A. In addition to the obligations outlined in the RFP, the OPSO will:

1. Provide the Contractor any documents mutually identified as reasonable and necessary for the Contractor's performance of any work required under this Agreement;
2. Comply with HIPAA and any state health information privacy laws, to the extent they are applicable;
3. Provide security services sufficient to enable the Contractor, its staff, employees, agents, or subcontractors to safely provide the services required by this Agreement;
4. Provide security as necessary and appropriate in connection with the transportation of detained persons to off-site medical services;
5. Provide the Contractor with copies of any and all policies and procedures which impact the provision of the services required by this Agreement and notify the Contractor in advance of any changes to applicable policies and procedures;
6. Notify the Contractor in advance of any changes to policies and procedures that may impact the provision of the services; and
7. Procure naloxone kits and fentanyl test strips using Opioid Settlement Grant funds to provide to residents upon release.

ARTICLE IV - COMPENSATION

A. Rate of Compensation.

1. The City will pay the Contractor in accordance with the following rates set forth in the Cost Proposal, subject to the adjustments and limitations contained in this Article.
2. This Agreement does not guarantee any amount of work or compensation except as specifically authorized by the City in accordance with the terms and conditions of this Agreement.
3. The stated compensation is inclusive, and includes no additional amounts for, the Contractor's costs, including, without limitation, all expenses relating to overhead, administration, subcontractors, employees, bid preparation, bonds, scheduling, invoicing, insurance, records retention, reporting, inspections, audits, the correction of errors and omissions, or minor changes within the scope of this Agreement. The City will not consider or be obligated to pay or reimburse the Contractor any other charges or fees, and the Contractor will not be entitled to any additional compensation or reimbursement, except as otherwise specifically provided in the Agreement.
4. The Contractor will immediately provide written notification to the City of any reduction to the rate of compensation for its most favored customer, and the rate of compensation established by this Agreement will automatically adjust to the reduced rate effective as of the effective date of the reduction for the most favored customer.

B. Maximum Amount. The maximum aggregate amount payable by the City under this Agreement is **\$22,923,609.00** for Year 1 (i.e., June 1, 2024, through May 31, 2025); and **\$23,565,407.00** for Year 2 (i.e., June 1, 2025, through May 31, 2026), collectively, **\$46,489,016.00**. This is a Cost-Plus Management Fee Agreement in which Contractor's operational costs are passed to the City, up to the Maximum Amount set forth in this Agreement. The Cost Proposal contains all budgeted costs, including: 1) the Management & Administrative Fees, fixed costs which are paid to the Contractor for administering the services outlined in this Agreement; and 2) Operating Costs, which includes all personnel and other operating costs associated with the delivery of services required under this Agreement. For Year 1, the maximum allowable amount for Operating Costs is \$20,027,598. For Year 2, the maximum allowable amount for Operating Costs is \$20,580,972. The Parties acknowledge that Operating Costs may vary based on the needs of detained persons and the actual cost of materials and supplies. However, the Contractor will not charge above the maximum aggregate for Operating Costs, except as explicitly authorized by provisions within this Article.

C. Payment to the Contractor. On the 1st of each month of the term of this Agreement, the Contractor will submit an invoice to the City for the monthly Management & Administrative Fees (e.g., \$241,334.25 for Year 1) and the estimated monthly Operating Costs (e.g., \$1,668,966.50 for Year 1). Actual costs will be reconciled every six (6) months per Section 8.2. of Attachment "A" to the RFP.

D. Pricing Reconciliation. Every six (6) months, the Contractor will complete a pricing reconciliation. For Operating Costs, if the aggregate actual costs are less than the aggregate budgeted costs at the end of the six-month period, then the Contractor shall reimburse the City One Hundred Percent (100%) of such savings. If actual Operating Costs exceed budgeted Operating Costs, the City shall not be responsible for these costs.

E. Adjustments to Compensation. Sections 17.3.1 – 17.3.4 of Attachment "A" to the RFP are removed and replaced as follows. The adjustments contemplated herein are in addition to the biannual pricing reconciliation detailed in Article IV, Section D above.

1. Monthly Staffing Reconciliation. The Contractor will provide the City with a monthly itemized accounting of hours worked by position, as identified in the staffing matrix. The Contractor, in conjunction with the City, will, on a monthly basis, review the hours reconciliation with hours re-classed to alternate job category, as requested by the Contractor and deemed appropriate by the City. In all cases, employees not currently working required position hours may be used to cover like positions when their credentials are equal to or exceed the credentials required for such similar position. Unfilled hours include those hours which are not filled due to voluntary or involuntary termination or any other reason or incident resulting in the position being unfilled. However, unfilled hours will not include those hours not filled due time spent while involved in investigations at the request of Sheriff, or designee, or as required by law for matters related to the Sheriff, Jail, County, or an Inmate, by subpoena for matters related to the Sheriff, Jail, County or an Inmate, or in accordance with litigation or legal process related to Sheriff, Jail, County, or an Inmate. The Contractor will calculate, reconcile, and report any unfilled hours in a monthly report to the City.

2. Unfilled Hours Adjustment. In the event that unfilled hours exceed 10% of contracted hours for any position in any month, the City will be entitled to a credit equal to 100% of the average salary rate for the position, inclusive of benefits, for each unfilled hour exceeding

10% (e.g., If Position A has 100 monthly contracted hours and 85 of those hours are filled, the City will be owed a credit for five (5) hours).

3. **Temporary Staffing.** The use of temporary and agency staffing to fill permanent positions should be minimized. The Contractor will access all alternative options to keep temporary and agency staffing to a minimal level. In the event that temporary or agency staffing exceeds 20% for any position for three consecutive months or more, the Contractor shall provide a report to the City detailing the reasons for extended use of temporary or agency staffing, and the strategies being employed by the contractor to hire full time staff for the position

F. **Mental Health Technicians.** The non-certified Mental Health Technician (MHT) positions hired by Wexford from the previous contract(or) will be grandfathered in as reimbursable for the CNA/Observer position as part of the transition. As with all employees, Wexford will, under no circumstances, have the grandfathered in employees operating outside of the scope of their certification/licensure.

ARTICLE V - DURATION AND TERMINATION

A. **Initial Term.** The term of this Agreement shall be for two (2) years, beginning on the Effective Date, provided there is an encumbrance of funds by the requesting department made from the funds allotted by the Chief Administrative Officer, which are derived from appropriations made by the City Council. This Agreement shall automatically terminate with respect to any period of time for which funds are not so encumbered.

B. **Extension.** This Agreement may be extended at the option of the City, provided that funds are allocated by the City Council and the extension of the Agreement facilitates the continuity of services provided herein. This Agreement may be extended by the City for 3 additional one-year terms.

C. **Termination for Convenience.** The City may terminate this Agreement at any time during the term of the Agreement by giving the Contractor written notice of the termination at least 30 calendar days before the intended date of termination.

D. **Termination for Cause.** The City may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective thirty (30) days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

E. **Termination for Non-Appropriation.** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice; and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

F. **Suspension.** Notwithstanding the article on Force Majeure, the City may suspend this Agreement at any time and for any reason by giving 2 business days' written notice to the Contractor. The Contractor will resume work upon 5 business days' written notice from the City.

ARTICLE VI – DECLARED DISASTER

A. **Declaration.** During the declaration of an emergency by federal, state, and/or local government, the Contractor shall provide support to the City on an as-needed and task-order-driven basis. Because of the uncertainty of the scale and/or type of emergency, the services to be provided by the Contractor will vary and may need to be adjusted as needs are identified. The Contractor may be requested to provide a range of services. Said services may need to be rendered on a continual basis (24 hours per day/7 days per week) during the declaration of an emergency.

B. **Task Order. Notification and Personnel.** Prior to or during the declaration of an emergency, the City will notify the Contractor via task order if the City requires the Contractor's support. Upon activation by task order, the Contractor will provide the City with contact information of personnel assigned to the task order; and coordinate with the City to identify any personnel available to meet the City's needs.

C. **Purchase Order.** Once services are identified, the City will issue a purchase order to the Contractor. The City will issue a subsequent purchase order in case of additional need for services, or may issue a modified purchase order if changes are made to the initial purchase order.

D. **Timely Documentation.** The Contractor will ensure that the City is provided with timely and accurate reports and other documentation, as requested.

ARTICLE VII - PERFORMANCE MEASURES

A. **Factors.** The City will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

B. **Failure to Perform.** If the Contractor fails to perform according to the Agreement, the City will notify the Contractor. If there is a continued lack of performance after notification, the City may declare the Contractor in default and pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting Contractor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting Contractor.

ARTICLE VIII – LIVING WAGES

A. **Definitions.** Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

B. **Compliance.** To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code ("Living Wage");

2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and

3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

C. **Living Wage.** In accordance with the Living Wage Ordinance, Living Wage shall be as follows:

1. \$15.00 per hour plus any adjustment provided in subsection D below for any work performed during calendar year 2024 or thereafter.

D. **Adjusted Living Wage.** In accordance with Section 70-806(2) of the City Code, the Living Wage shall be annually adjusted for inflation, as defined by the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics as applied to the South Region, except that in no instance shall the Living Wage be adjusted downward. The first adjustment shall become effective on January 1, 2024, using the Consumer Price Index figures provided for the preceding year, and thereafter on an annual basis.

E. **Subcontract Requirements.** As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance (“**Article**”). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

F. **Reporting.** On or before January 31st and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

G. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “**OWD**”) and/or the Chief Administrative Office (“**CAO**”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (ii) that the City may

audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. Remedies. If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

ARTICLE X - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state, and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. Incorporation into Subcontracts. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with these provisions.

D. Termination for Breach. The City may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE XI - INDEPENDENT CONTRACTOR

A. Independent Contractor Status. The Contractor is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors, or agents to be an employee, partner, or agent of the City.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Contractor, as an independent contractor as defined in La. R.S. 23:1021(7), for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the Contractor will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. Exclusion of Unemployment Compensation Coverage. The Contractor, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(12)(E), and neither the Contractor nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage is being hereby expressly waived and excluded by the parties, because: (a) the Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by the Contractor are outside the normal course and scope of the City's usual business; and (c) the Contractor has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. Waiver of Benefits. The Contractor, as an independent contractor or agent, will not receive from the City any sick or annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

ARTICLE XII – FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:

- a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all

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commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or

- b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Contractor and without any further compensation due.

2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

ARTICLE XIII - NOTICE

A. In General. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested, as follows:

1. To the City:

Gilbert Montañó, Chief Administrative Officer
Chief Administrative Office
City of New Orleans
1300 Perdido Street, Suite 9E06
New Orleans, LA 70119

&

Donesia D. Turner, City Attorney
Law Department
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the OPSO:

Sheriff Susan Hutson, Sheriff
Orleans Parish Sheriff's Office
2800 Perdido Street
New Orleans, La 70119

3. To the Contractor:

John M. Froehlich, Senior Vice President & Chief Financial Officer
Wexford Health Sources, Inc.
501 Holiday Drive, Suite 300, Foster Plaza Four
Pittsburgh, PA 15220

B. Effectiveness. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

C. Notification of Change. Each Party is responsible for notifying the other in writing, that references this Agreement, of any changes in its address(es) set forth above.

ARTICLE XIV - ADDITIONAL PROVISIONS

A. Amendment. The City's officers and employees are not authorized to request or instruct the Contractor to perform any work beyond the scope or duration of this Agreement in the absence of an executed amendment to this Agreement. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both Parties to this Agreement.

B. Assignment. This Agreement and any part of the Contractor's interest in it are not assignable or transferable without the City's prior written consent.

C. Choice of Law. This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

D. Compliance with City's Hiring Requirements – Ban the Box.

1. The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, the Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary.

2. Failure to maintain compliance with the City's hiring requirements through the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City will provide the Contractor notice of noncompliance and allow the Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to the Contractor, void the Agreement, or take any such legal action permitted by law or this Agreement.

3. This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and remaining provisions of the Agreement will remain in full force and effect.

4. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

E. Confidentiality.

1. In performing its obligations under the Agreement, including, but not without limitation, its reporting obligations, the Contractor shall comply with all confidentiality provisions applicable to health records of detained persons. The Contractor shall not be required to make any report or keep any record which would either (1) breach a confidentiality requirement or (2) constitute a waiver of any privilege that the Contractor may have, including, but not limited to, attorney-client privilege. If necessary to protect the confidentiality of health records, the Contractor may redact the detained person's health records to delete identifying information in connection with submission of such reports, except for submission of reports to the OPSO.

2. The Contractor acknowledges that the City is subject to public records laws and that it has read and understands the requirements mandated by Louisiana Revised Statute 44: 1, et

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seq. The Contractor further warrants and agrees that it will comply with those requirements, specifically including requirements mandated by La. R.S. 44:3.2(D), which states in pertinent part:

- a. All records containing proprietary, or trade secret information submitted by a developer, owner, or manufacturer to a public body pursuant to Subsection A, B, or C of this Section shall contain a cover sheet that provides in bold type "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION". The developer, owner, or manufacturer shall clearly mark each instance of information which is, in his opinion, proprietary or trade secret information. However, the determination of whether such information is in fact proprietary or trade secret information shall be made by the custodian within thirty days of a submission; however, if a custodian receives a public record request during the period of thirty days, the determination shall be made within the period provided in La. R.S. 44:32(D) and 33(B).

3. The Contractor acknowledges that this document will be published on the internet by the City of New Orleans and consents to said publication.

D. Conflicting Employment. To ensure that the Contractor's efforts do not conflict with the City's interests, and in recognition of the Contractor's obligations to the City, the Contractor will decline any offer of other employment if its performance of this Agreement is likely to be adversely affected by the acceptance of the other employment. The Contractor will promptly notify the City in writing of its intention to accept the other employment and will disclose all possible effects of the other employment on the Contractor's performance of this Agreement. The City will make the final determination whether the Contractor may accept the other employment.

E. Construction of Agreement. None of the Parties will be deemed to have drafted this Agreement. This Agreement has been reviewed by all Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all Parties. No term of this Agreement shall be construed or resolved in favor of or against the City, OPSO, or the Contractor on the basis of which Party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

F. Cost Recovery. In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.

G. Entire Agreement. This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the Parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

H. Exhibits. The following exhibits will be and are incorporated into this Agreement: the RFP (Exhibit "A"), Technical Proposal (Exhibit "B"), Cost Proposal (Exhibit "C"), and Consent Judgment (Exhibit "D").

I. Familiarity with the Laws. The Contractor shall be familiarized with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over the Agreement. These laws and/or ordinance will be deemed to be included in the Agreement, the same as though herein written in full.

J. Order of Documents. In the event of any conflict between the provisions of this Agreement and any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; Exhibit "D"; Exhibit "A", Exhibit "B", and Exhibit "C".

K. Jurisdiction. The Contractor consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of the Contractor.

L. Limitations of the City's Obligations. The City has no obligations not explicitly set forth in this Agreement, any incorporated documents, or expressly imposed by law.

M. No Third-Party Beneficiaries. This Agreement is entered into for the exclusive benefit of the Parties and the Parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

N. Non-Exclusivity. This Agreement is non-exclusive and the Contractor may provide services to other clients, subject to the City's approval of any potential conflicts with the performance of this Agreement, and the City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

O. Non-Waiver. The failure of any Party to insist upon strict compliance with any provision of this Agreement, to enforce any right, or to seek any remedy upon discovery of any default or breach of any other Party at such time as the initial discovery of the existence of such noncompliance, right, default, or breach shall not affect or constitute a waiver of a Party's right to insist upon such compliance, exercise such right, or seek such remedy with respect to that default or breach, or any prior, contemporaneous, or subsequent default or breach.

P. Ownership Interest Disclosure. The Contractor will provide a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City may, after 30 days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until the required affidavits are submitted.

Q. Ownership of Records. All data collected and all products of work prepared, created, or modified by Contractor in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings, or other such material, regardless of form and whether finished or unfinished, but excluding the Contractor's personnel and administrative records and any tools, systems, and information used by the Contractor to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, "**Work Product**") will be the exclusive property of City and the City will have all right, title, and interest in any Work

Product, including, without limitation, the right to secure and maintain any copyright, trademark, or patent of Work Product in the City's name. No Work Product may be reproduced in any form without the City's express written consent. The City may use and distribute any Work Product for any purpose the City deems appropriate without the Contractor's consent and for no additional consideration to the Contractor.

R. Prohibition of Financial Interest in Agreement. No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of Contractor, shall render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to Contractor pursuant to this Agreement without regard to Contractor's otherwise satisfactory performance of the Agreement.

S. Prohibition on Political Activity. None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

T. Remedies Cumulative. No remedy set forth in the Agreement or otherwise conferred upon or reserved to any Party shall be considered exclusive of any other remedy available to a Party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

U. Severability. Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

V. Subcontractor Reporting. The Contractor will provide a list of all natural or artificial persons who are retained by the Contractor at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the City. For any subcontractor proposed to be retained by the Contractor to perform work on the Agreement with the City, the Contractor must provide notice to the City within 30 days of retaining that subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after thirty 30 days' written notice to the Contractor, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

W. Survival of Certain Provisions. All representations, warranties, and obligations concerning records retention, inspections, audits, ownership, indemnification, payments, remedies, jurisdiction, choice of law, and Confidential Information shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

X. Task Order. Notification and Personnel. Prior or during the declaration of an emergency, the City will notify the Contractor via task order if the City requires the Contractor's

support. Upon activation by task order, the Contractor will provide the City with contact information of personnel assigned to the task order; and coordinate with the City to identify any personnel available to meet the City's needs.

Y. Terms Binding. The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE XV – COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement, but all of which, when taken together, shall constitute one and the same agreement.

ARTICLE XVI – LIQUIDATED DAMAGES

A. Liquidated Damages In General. Although quantification of damages is difficult, the Parties agree that the liquidated damages, including, but not limited to, those set forth in the table below are reasonable estimates of the actual damages that would be incurred by the public, the OPSO, and the City for any breach of the delineated performance measures. The damages required by this section are intended to reflect the inconvenience to the public, along with the adverse effects on OPSO and the City. The Parties intend that the liquidated damages constitute compensation, and not a penalty. In the event the City decides to enforce the liquidated damages provision for a specific breach, the Contractor's payment of the liquidated damages is the Contractor's sole liability and entire obligation, and the City's and OPSO's exclusive remedy for that specified breach. However, the Contractor's payment of liquidated damages shall not relieve the Contractor in breach of the Agreement of responsibility for damage, personal injury, or other harm caused to third-persons by any of these violations.

B. Reconciliation. Liquidated damages shall be reconciled monthly by the City, in consultation with the Contractor, and credited against the following month's invoice. By way of example, for liquidated damages assessed by the City in the month of July 2024, any damages assessed will be applied to the August 2024 invoice. If the City is unable to assess damages in the following month for any reason, including without limitation, the Parties need additional time to comply with the Notifications and Contestation provisions provided for hereinunder, the City will assess damages (if applicable) as soon as reasonably practicable in the next month that follows.

C. Procedures for Notification. The City will first notify the Contractor via email reasonably promptly after determining that the Contractor breached one or more of the delineated performance measures.

D. Opportunity to Contest. The Contractor shall have five (5) calendar days from receipt of the City's email notice to contest the City's determination and provide written documentation disputing the breach, or an explanation of a justifiable cause for the breach.

E. Review and Decision. The City shall consider all provided documentation and or explanation(s) provided by the Contractor when determining whether to assess liquidated damages. The Parties agree that any breach attributable solely to factors beyond the Contractor's control, if supported by supporting documentation, will be considered a justifiable cause for breach. Notwithstanding the foregoing, the Parties agree and acknowledge that the City has the right to assess liquidated damages in its sole discretion. The City will provide the Contractor with an official determination and the total amount of assessed liquidated damages within a reasonable amount of time upon receipt of the Contractor's written documentation and/or explanation(s).

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F. Reassessment of Liquidated Damages. The Parties agree to meet, reassess, and adjust liquidated damages, as necessary, if for example, the Monitors or a third-party contractor find that a certain performance measure should be adjusted or added with respect to the liquidated damages table to better account for an inconvenience to the public or adverse effect to OPSO and the City.

G. Performance Measures. The Contractor agrees to pay the liquidated damages incurred at the rates, or in the specified amounts.

Breach	Damages
Failure to provide medication-assisted treatment for detained persons with substance-use disorders as medically appropriate, including continuation of medication for opioid use disorder prescribed prior to detention and initiation of treatment as clinically indicated.	\$250 per occurrence
Failure to ensure that all detained persons are screened by a Qualified Medical Staff upon arrival to OJC but no later than within eight hours, to identify risk for suicide or self-injurious behavior.	\$250 per occurrence
Failure to ensure that a Qualified Mental Health Professional conducts appropriate mental health assessments within the following periods from the initial screen or other identification of need: (1) 14 days, or sooner, if medically necessary, for prisoners with routine mental health needs; (2) 48 hours, or sooner, if medically necessary, for prisoners with urgent mental health needs; and (3) immediately, but no later than two hours, for prisoners with emergent mental health needs.	\$250 per occurrence
Failure to ensure that a Qualified Mental Health Professional performs a mental health assessment no later than the next working day following notification to mental health of any adverse triggering event (i.e., any suicide attempt, any suicide ideation, or any aggression to self, resulting in serious injury), so long as the inmate is located within the facility.	\$250 per occurrence
Failure to ensure that a Qualified Mental Health Professional, as part of the prisoner's interdisciplinary treatment team, maintains a risk profile for each prisoner on the mental health case load based on the Assessment Factors identified in Appendix B of the Consent Decree, and develops and implements a treatment plan to minimize the risk of harm to each of these prisoners.	\$100 per occurrence
Failure to ensure that all prisoners discharged from suicide precautions receive a follow-up assessment within three to eight working days after discharge, as clinically appropriate, in accordance with a treatment plan developed by a Qualified Mental Health Care Professional.	\$200 per occurrence
Failure to implement interventions and services, including offering group or individual therapy services by an appropriately licensed/certified clinician, at the frequency recommended in the Behavioral Health treatment plan.	\$200 per occurrence
Failure to ensure that detained persons receive verified psychotropic medications in a timely manner and that prisoners have proper diagnoses and/or indications for each psychotropic medication they receive.	\$250 per occurrence
Failure to ensure that prescriptions for psychotropic medications are reviewed prior to prescription expiration by a psychiatric prescriber on a regular, timely basis.	\$200 per occurrence

Failure to ensure that every suicide or serious suicide attempt is investigated by appropriate health care staff, to be completed within 30 days, including an administrative review, clinical mortality review for completed suicides, and psychological autopsy for completed suicides, and that the results of the investigation are shared with the Sheriff and Monitor.	\$500 per occurrence
Failure to provide medical screenings to determine the degree of risk for potentially life-threatening withdrawal from alcohol, benzodiazepines, and other substances, in accordance with Appendix B of the Consent Decree	\$250 per occurrence

ARTICLE XVII - ELECTRONIC SIGNATURE AND DELIVERY

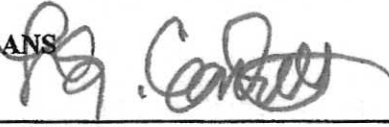
The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a Party until such Party has delivered or caused to be delivered a manually signed copy of this Agreement.

[SIGNATURES CONTAINED ON NEXT PAGE]

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

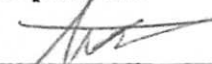
BY: 

LATOYA CANTRELL, MAYOR

Executed on this 23rd of May, 2024.

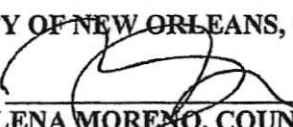
FORM AND LEGALITY APPROVED:

Law Department

By: 

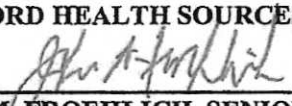
Printed Name: Andrew Gregorian

CITY OF NEW ORLEANS, CITY COUNCIL

BY: 

HELENA MORENO, COUNCIL PRESIDENT

WEXFORD HEALTH SOURCES, INC.

BY: 

JOHN M. FROEHLICH, SENIOR VICE PRESIDENT & CHIEF
FINANCIAL OFFICER

ORLEANS PARISH SHERIFF'S OFFICE

BY: _____

SUSAN HUTSON, SHERIFF

[EXHIBIT(S) "A", "B", "C", & "D" ARE ATTACHED SEPARATELY]

IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

BY: _____
LATOYA CANTRELL, MAYOR

Executed on this _____ of _____, 2024.

FORM AND LEGALITY APPROVED:
Law Department

By: _____

Printed Name: _____

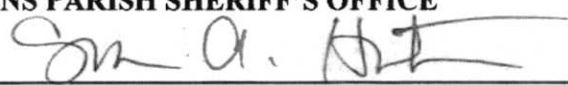
CITY OF NEW ORLEANS, CITY COUNCIL

BY: _____
HELENA MORENO, COUNCIL PRESIDENT

WEXFORD HEALTH SOURCES, INC.

BY: _____
**JOHN M. FROEHLICH, SENIOR VICE PRESIDENT & CHIEF
FINANCIAL OFFICER**

ORLEANS PARISH SHERIFF'S OFFICE

BY:  _____
SUSAN HUTSON, SHERIFF

[EXHIBITS "A", "B", "C", & "D" ARE ATTACHED SEPARATELY]