

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE COUNTIES OF ARAPAHOE AND ADAMS,  
TRI-COUNTY HEALTH DEPARTMENT AND  
THE CITY OF AURORA, COLORADO,  
REGARDING THE OPERATION OF THE  
AURORA EMERGENCY RESPITE CENTER**

**THIS INTERGOVERNMENTAL AGREEMENT** is made on the respective dates signed by and among Adams County, Arapahoe County, the City of Aurora, Colorado (“the City”), and Tri-County Health Department (“TCHD”), regarding each Party’s responsibility and obligations in the operation of the Aurora Emergency Respite Center (“Center”). Individually referred to in this Agreement as a “Party,” collectively referred to in this Agreement as the “Parties.”

**WHEREAS**, pursuant to Colorado Constitution, Article XIV, Section 18 and C.R.S. § 29-1-203, each Party has the legal authority to cooperate or contract with each other Party to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, or other matters, for the purposes stated hereinafter; and

**WHEREAS**, the City, with its principal offices located at 15151 E. Alameda Parkway, Aurora, Colorado 80012, is operating a hotel, the “Aurora Emergency Respite Center” at 1101 S. Abilene Street, Aurora, Colorado 80012, for the purpose of housing the homeless and individuals in vulnerable housing situations for short-term stays in the non-congregant Aurora Emergency Respite Center shelter during the emergency declared by Governor Polis due to the coronavirus COVID-19 outbreak; and

**WHEREAS**, Adams County, with its principal offices located at 4430 S. Adams County Parkway, Brighton, Colorado 80601, desires to cooperate, assist and participate in contributing funding to the lease costs of the Aurora Emergency Respite Center; and

**WHEREAS**, Arapahoe County, with its principal offices located at 5334 S. Prince Street, Littleton, Colorado 80120-1136, desires to cooperate, assist and participate in contributing funding to the lease costs of the Aurora Emergency Respite Center; and

**WHEREAS**, TCHD, the District Public Health Agency for the Counties of Adams, Arapahoe, and Douglas, State of Colorado, with its principal offices located at 6162 S. Willow Drive, Suite 100, Greenwood Village, Colorado 80111, desires to cooperate and participate in the operation of the Aurora Emergency Respite Center; and

**WHEREAS**, both Adams County and Arapahoe County are relying on using Housing and Urban Development Community Development Block Grant funds for their contribution to the operation of the Aurora Emergency Respite Center, and such funds are subject to a public approval process which may cause funding from the Counties to be delayed.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

**Section 1 – Recitals Incorporated.**

The recitals set forth above are incorporated into this Agreement and shall be deemed to be terms and provisions of this Agreement, to the same extent as if fully set forth in this section.

## **Section 2 – Scope of Services.**

### **A. The City agrees to:**

1. Operate the Aurora Emergency Respite Center to quarantine and isolate homeless individuals and homeless families that are required to be isolated from the public due to a positive COVID-19 test, having symptoms consistent with COVID-19 illness, or who have been ordered by a medical service, doctor or hospital to isolate themselves.
2. Maintain the lease terms on behalf of the Parties of this Agreement pursuant to Attachment A – Lease, attached hereto and incorporated herein.
3. Allow vulnerable individuals and individuals unable to isolate themselves from their family in the non-congregate shelter at the Aurora Emergency Respite Center.
4. Provide the Parties and the guests with a Guest Agreement, Attachment B – Guest Agreement, attached hereto and incorporated herein, for everyone sheltered at the Aurora Emergency Respite Center. Each Guest is required to read and sign the Guest Agreement and follow all the provision of the Guest Agreement while sheltered at the Center.
5. Contract with Mile High Behavioral Healthcare (MHBHC) for the daily operation and control of the Aurora Emergency Respite Center, Attachment C – MHBHC Agreement, attached hereto and incorporated herein.
6. MHBHC shall contract with The Salvation Army to provide breakfast, lunch and dinner meals for those sheltered at the Aurora Emergency Respite Center.
7. Keep the Aurora Emergency Respite Center open from April 1, 2020 and tentatively until May 30, 2020. The City may continue to operate the Aurora Emergency Respite Center on a month-to-month basis until the emergency declared by Governor Polis, caused by COVID-19 virus, is terminated by the Governor.
8. To coordinate with medical service providers and hospitals in Adams and Arapahoe Counties that may refer homeless individuals and homeless families to the non-congregate shelter at the Aurora Emergency Respite Center who need to be quarantined or isolated for the period requested by the medical service provider or hospital.
9. Tentatively reserve eighteen (18) rooms for individuals referred from Adams County, and Adams County area medical services and hospitals. The City will endeavor to seek balance in the number of rooms allocated to residents of the two counties and will provide notice to the counties if it is necessary to vary from the balance. The goal is to shelter individuals and families at the Aurora Emergency Respite Center as space permits.
10. Tentatively reserve eighteen (18) rooms for individuals referred from Arapahoe

County, and Arapahoe County area medical services and hospitals. The City will endeavor to seek balance in the number of rooms allocated to residents of the two counties and will provide notice to the counties if it is necessary to vary from the balance. The goal is to shelter individuals and families at the Aurora Emergency Respite Center as space permits.

11. Keep records and make those records available to all Parties of the number of residents served at the Aurora Emergency Respite Center, the duration of their stay at the Center, and the reason for leaving the Aurora Emergency Respite Center.
12. Report to all the Parties who is residing at the Aurora Emergency Respite Center on a bi-weekly basis.
13. Use Community Development Block Grant (CDBG) funding for operate the Aurora Emergency Respite Center. CDBG funding may be used under the urgent need national objective to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community pursuant to 24 C.F.R. § 570.208(c) and 24 C.F.R. § 570.483(d). The Emergency Solutions Grant (ESG) Program may be used for assistance to both homeless persons and persons at risk of homelessness after a disaster. ESG funds may be used to address many short-term disaster response needs. Eligible components of ESG funding include essential services for individuals and families in emergency shelter. Component services generally consist of case management, childcare, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, and transportation. Shelter Operations, including maintenance, rent, security, fuel, equipment, insurance, utilities, and furnishings are also eligible costs, pursuant to 24 C.F.R. § 576.102
14. Compliance with all relevant CDBG regulations, 24 C.F.R. 570, and all cross-cutting regulations cited in Attachment E – CDBG Regulations, attached hereto and incorporated herein, including CDBG reporting requirements for each respective County.
15. Seek reimbursement from Federal Emergency Management Agency's (FEMA's) Public Assistance Program for eligible expenses and work with the Parties on reimbursement of the FEMA funds.
16. Request CDBG reimbursement from Adams and Arapahoe County's respective payment process.

**B. Adams County agrees to:**

1. Contribute to the lease costs of the Aurora Emergency Respite Center as stated in Attachment A – Lease. Such contributions shall be \$50,000 per month of CDBG funds for the purpose of operating the Aurora Emergency Respite Center. The first payment shall be due upon full execution of this Agreement, with each monthly installment on the first of the month following thereafter.
2. Contribute towards lease costs for the Agreement term, with the option to provide one additional month (\$50,000) of CDBG funds, the maximum contribution will be \$150,000.

3. Have MHBHC operate the Aurora Emergency Respite Center and agrees to collaborate with MBHC staff regarding the operation of the Center.
4. Have The Salvation Army supply breakfast, lunch and dinner meals to the guests who are staying at the Aurora Emergency Respite Center.
5. Have medical service providers and hospitals in Adams County refer homeless individuals and homeless families to the non-congregate shelter at the Aurora Emergency Respite Center for the purposes of quarantine or isolation for that duration of time requested by the medical service provider or hospital, provided such duration does not extend past the termination of Attachment A – lease, and provided that the County has enough rooms designated to itself or receives approval from the City for additional rooms.
6. If needed, and if available, Adams County agrees to allow the use of its reserved rooms to the Parties, upon notification from the City.
7. Refer individuals to the non-congregate shelter at the Aurora Emergency Respite Center who are vulnerable individuals or individuals unable to isolate themselves from their family/families.
8. Keep records of the people referred to the Aurora Emergency Respite Center and make those records available to the City upon request.
9. Upon referral to the Aurora Emergency Respite Center all persons shall be advised they must read, or have it interpreted to them, sign and follow the Guest Agreement in Attachment B. Every person sheltered at the Aurora Emergency Respite Center must comply with the expectations of the Guest Agreement at all times while a guest at the Center.

**C. Arapahoe County agrees to:**

1. Share in the lease costs for the Aurora Emergency Respite Center by providing \$50,000 per month for two months for a maximum of \$100,000 in funding to the City for that purpose. The County is not providing any funding toward the operational costs of the Aurora Emergency Respite Center. Any additional funding must be approved by the Arapahoe County Board of County Commissioners.
2. Have MHBHC operate the Aurora Emergency Respite Center and agrees to collaborate with MHBHC staff in the operation of the Center.
3. Have The Salvation Army supply breakfast, lunch and dinner meals to the guests who are staying at the Aurora Emergency Respite Center.
4. Have medical service providers and hospitals in Arapahoe County refer homeless individuals and homeless families to the non-congregate shelter at the Aurora Emergency Respite Center who need to be quarantined or isolated for the period requested by the medical service provider or hospital.
5. Refer individuals to the non-congregate shelter at the Aurora Emergency Respite Center who are vulnerable individuals or individuals unable to isolate themselves from their family/families.

6. Keep records of the people referred to the Aurora Emergency Respite Center and make those records available to the City upon request.
7. Advise all guests referred to the Aurora Emergency Respite Center they need to read, sign, and follow the Guest Agreement to shelter at the Aurora Emergency Respite Center.

**D. Tri-County Health Department (TCHD) agrees to:**

1. Have MHBHC operate the Aurora Emergency Respite Center and agrees to collaborate with MHBHC staff in the operation of the Center.
2. Have The Salvation Army supply breakfast, lunch and dinner meals to the guests who are staying at the Aurora Emergency Respite Center.
3. Refer homeless individuals and homeless families from Adams, Arapahoe and Douglas Counties to the non-congregate sheltering at the Aurora Emergency Respite Center who need to be quarantined or isolated for the period requested by the medical service provider, a hospital, or TCHD.
4. Refer individuals to the Aurora Emergency Respite Center who are vulnerable individuals or individuals unable to isolate themselves from their family/families.
5. Keep records of the people referred to the Aurora Emergency Respite Center and make those records available to the City upon request.
6. Advise all guests referred to the Aurora Emergency Respite Center they need to read, sign, and follow the Guest Agreement to shelter at the Aurora Emergency Respite Center.

**Section 3 - Term:**

The term of this Agreement shall be from April 1, 2020 through May 30, 2020. The City has the option to renew the lease agreement for the Aurora Emergency Respite Center with the Owner and the Professional Services Agreement with MHBHC to operate the Center on a month-to-month period. If the term is extended the terms and mutual covenants of this Agreement will remaining in full force and effect for the duration of this Agreement, subject to the restrictions of Section 2(C)(1) above

**Section 4 - Termination**

Either Party may terminate this Agreement upon fifteen (15) days advanced written notice to the other Parties. Upon termination, the Parties shall be released from the terms and mutual covenants of this Agreement, except for those which specifically survive the termination of this Agreement.

**Section 5 - Insurance**

A. The Parties are recognized as political subdivisions of the State of Colorado. As such, they are governed by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.*, as it is from time to time amended. Each Party shall maintain such insurance as is

standard in the industry for governmental entities.

B. The Parties acknowledge and agree that they, their respective officers, and employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act.

C. Each Party shall supply the other Parties with applicable certificates of insurance upon written request.

## **Section 6 - Liability**

A. The City agrees to be responsible, subject to the limitations set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., for injuries sustained from an act or omission of its public employees occurring during the employee's duties and with the scope of his or her employment, unless the act or omission is willful and wanton or where sovereign immunity bars the action against the City.

B. Adams County agrees to be responsible, subject to the limitations set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., for injuries sustained from an act or omission of its public employees occurring during the employee's duties and with the scope of his or her employment, unless the act or omission is willful and wanton or where sovereign immunity bars the action against the County.

C. Arapahoe County agrees to be responsible, subject to the limitations set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., for injuries sustained from an act or omission of its public employees occurring during the employee's duties and with the scope of his or her employment, unless the act or omission is willful and wanton or where sovereign immunity bars the action against the County.

D. TCHD agrees to be responsible, subject to the limitations set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., for injuries sustained from an act or omission of its public employees occurring during the employee's duties and with the scope of his or her employment, unless the act or omission is willful and wanton or where sovereign immunity bars the action against TCHD.

E. Neither Party shall be obligated to indemnify any other Party in any manner whatsoever for the other Party's own negligence. The Parties agree to provide written notice within thirty (30) days of the knowledge of any claim or controversy.

F. The Parties are not liable to the other nor shall make claim for any incidental, indirect or consequential damages arising out of or connected in any way to the work referenced within this Agreement. The mutual waiver of consequential damages includes, but is not limited to, loss of use, loss of profit, loss of business, loss of income or any other consequential damages that any Party may have incurred from any cause of action including negligence or breach of contract. The Parties acknowledge that Adams County, Arapahoe County, the City, and TCHD are covered and self-insured under the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq.

## **Section 7 – Compliance with the Law**

- A. The Parties will each comply with all applicable statutes, laws, rules, regulations, licenses, certificates, and authorizations of any governmental body or authority in the performance or carrying out of its obligations under this Agreement.
- B. It is agreed by the Parties that there shall be no discrimination based on race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.
- C. The Parties will cooperate with the City in supplying additional information to the City and other Party, or in complying with any procedures which might be required by any governmental agency in order for any Party to establish that it has observed all requirements of the law with respect to this Agreement.

## **Section 8 – Independent Contractor**

The relationship between the Parties is that of an independent contractor. Each Party shall be solely and entirely responsible for its acts and the acts of its employees, agents, servants, and subcontractors during the term and performance of this Agreement. Each Party shall not be deemed to be, nor shall it represent itself as an employee, or joint venture (or construed as an employer-employee) of any other Party. No employee or officer of one Party shall supervise an employee or officer of another Party.

## **Section 9 – Use of Confidential Information**

- A. Unless otherwise agreed to in writing by the other Parties, each Party agrees to maintain in confidence, and shall keep confidential, all information of the other Party identified as confidential and obtained while performing the services described herein, whether received intentionally or inadvertently, and shall not disclose any such information (i) to any person other than those persons employed by or directly affiliated with each Party who are actively and directly participating in the services described herein; or (ii) except as may be required by law, specifically including, but not limited to, the Colorado Open Records Act, C.R.S. §24-72-201, et. seq., or compelled by deposition, interrogatory, subpoena, civil investigative demand or similar legal process, or any governmental entity entitled to disclosure of the same. A Party's obligations under this paragraph shall continue until such information loses its status as confidential information of the disclosing Party, provided that such loss of status is not due to the receiving party's breach of its confidentiality obligations hereunder.
- B. If either Party is requested to disclose confidential or protected information, said Party shall promptly notify the other Parties and shall cooperate if any other Party seeks a protective order or other appropriate remedy to prevent disclosure of the confidential or protected information.

## **Section 10 – General Provisions**

A.Cooperation. The personnel of all the Parties will seek each other's cooperation in carrying out the provisions of this Agreement and the Parties to promote understanding of, and adjustments to, any operation or activity involved herein.

B. Points of Contact and Notices. In order to implement the terms of this Agreement, each Party has designated a point of contact for the Agreement and the contact of service of notices required by this Agreement until changed by written notice to the other Parties, as follows:

For the City: Jessica Prosser, Manager Community Development Division  
9898 East Colfax Avenue  
Aurora, Colorado 80010  
303-739-7924

For Adams County: Melissa Scheere, Community Development Manager  
4430 S. Adams County Parkway  
Brighton, Colorado 80601  
720-523-6210

For Arapahoe County: Linda Haley,  
Housing Community Development Division Manager  
1690 W. Littleton Blvd., #300  
Littleton, Colorado 80120  
303-738-8089

For TCHD Jennifer L. Ludwig, Deputy Director  
Tri-County Health Department  
6162 S. Willow Drive, Suite 100  
Greenwood Village, Colorado 80010  
720-200-1559

C. Notice. Any notice to be given hereunder by any Party to the other may be effected in writing by personal delivery, or by mail, certified with postage prepaid, or by overnight delivery service. Notices sent by mail or by an overnight delivery service shall be addressed to the Parties at the addresses appearing following their signatures below, but either party may change its address by written notice in accordance with this paragraph.

D.Third Parties. This Agreement does not and shall not be deemed to confer upon any third party any right to enforce any other Party because of any term contained in this Agreement.

E. Assignment. This Agreement shall not be assigned in whole or in part without prior written consent of each of the Parties.

F. Severability. If any article, section, paragraph, sentence, clause or phrase of this Agreement is held to be unconstitutional or invalid for any reason, such holding shall not affect the validity, enforceability or constitutionality of the remaining provisions of this Agreement. Furthermore, in lieu of each such invalid or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in terms to



such invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

G. Entire Agreement. This Agreement constitutes the entire Agreement and understanding between the Parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement. There are no oral agreements concerning the subject matter of this Agreement.

H. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the Parties.

I. Waiver. The failure of any Party at any time to require performance of the other Party of any provision of this Agreement shall in no way affect the right of such Party thereafter to enforce the same provision, nor shall the waiver by either Party of any breach of any provision hereof be taken or held to be a waiver of any other or subsequent breach, or as a waiver of the provision itself.

J. Binding Agreement. This Agreement shall be effective as of the date hereof and shall be binding upon and inure to the benefit of the successor or assign of either party hereto.

K. Survival. The rights and obligations of the Parties shall survive the term of this Agreement to the extent that any performance is required under this Agreement after the expiration or termination of this Agreement.

L. Counterparts. This Agreement may be executed in four or more counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same document.

M. Compliance with Law. It is the intent of the Parties to comply with the provisions of Article X, Section 20, of the Constitution of the State of Colorado. Therefore, the Parties agree that this Agreement shall terminate May 30, 2020, unless renewed on a monthly basis then at the end of each monthly extension.

N. Governing Law. This Agreement shall be governed by the laws of the state of Colorado.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

**CITY OF AURORA, COLORADO**

\_\_\_\_\_, 2020  
Mike Coffman, Mayor

Attest:

\_\_\_\_\_  
Stephen J. Ruger, City Clerk

Approved as to Form:

\_\_\_\_\_  
Tim Joyce, Assistant City Attorney

**TRI-COUNTY HEALTH DEPARTMENT**

\_\_\_\_\_  
Jennifer L. Ludwig,  
Deputy Director

\_\_\_\_\_, 2020

**ADAMS COUNTY**

\_\_\_\_\_, 2020

Attest:

\_\_\_\_\_  
Approved as to Form:

\_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS  
ARAPAHOE COUNTY, COLORADO**

By: \_\_\_\_\_  
Chair, Nancy Sharpe

**ATTEST:**

\_\_\_\_\_  
Clerk to the Board

Attachment A – Lease

**LEASE AGREEMENT**

This Lease Agreement (“Lease”) is made this 1<sup>st</sup> day of April, 2020, by and between Limon Hospitality LLC (“the Owners”) and the City of Aurora, Colorado, a home rule municipal corporation (“the City”) for rental of the premises known as the “Hotel in Aurora,” located at 1101 South Abilene Street, Aurora, Colorado, 80012 (the “Premises”). It is the intent of the City under this Lease to house the homeless people of the City (“tenants or tenant”) in units of the Premises as guests of the City. The Owner, the City, and the tenants may be referred to individually as a “Party,” or collectively as the “Parties.”

In consideration of the Owners permitting the City to lease the entire 122 rooms and exterior corridors of the Premises to house the tenants, the City hereby covenants and agrees as follows:

1. Term. This Lease shall be for a period of two (2) months, commencing April 1, 2020, and terminating May 30, 2020. The City has the option to renew this Lease on a month to month basis at the end to the two-month term if the City provides notice at least twenty-one days before the scheduled termination of this Lease. If the City extends this Lease past the two-month term the Lease shall continue on a month-to-month basis, with all other terms remaining in full force and effect. After the original term, either party may terminate this Lease upon written notice given 21 days before the end of any monthly period.

2. Rent. The City shall pay rent of \$70.00 per room, or \$256,200.00 per month, payable in advance on the first day of the month, to be delivered to Owners Office at 10 East 120<sup>th</sup> Avenue, Northglenn, CO 80233, or at such other address as Owners may direct. Risk of loss of rent payments in the mail shall be with the City. If rent is not received by Owners by the 5th day of each month, the City will pay a late fee of \$2.00 per unit, per day, from the date rent was due to the date rent is received by Owners. The City will pay a \$25.00 charge for any dishonored check.

3. Security Deposit. The City shall pay a security and damage deposit of \$50,000.00. Said deposit will be returned within 60 days after the City vacates the Premises if all agreements and covenants of the Lease have been met, and if the Premises and personal property therein are left in an undamaged, clean, and rentable condition.

4. Receipt. The Owners acknowledge receipt from the City of the following sums: \$50,000.00 as a security and damage deposit; and \$512,400.00 for rent for the two-months of Premises rental.

5. Use. Each unit of the Premises shall be used only as living quarters for a family consisting of a single adult, or no more than 2 adults, and their children. Living quarters are for the exclusive use of quarantine and isolation for those individuals that have tested positive for COVID-19 or have known exposure. No pets are permitted in any

unit or on the Premises. The City will be responsible for any damage to the furniture or premises and all expenses, if any, accrued in the matter. No alcoholic beverages, tobacco products or marijuana use shall be permitted in a unit or anywhere on the Premises by any tenant.

6. Utilities. The Owner will provide all utilities and services such as WIFI, trash removal, and building maintenance, at no additional expense to the City.

7. Maintenance. The City has had an opportunity to examine all the units of the Premises and acknowledges that the Premises are in good order and repair, except as otherwise indicated in the damage checklist attached to this Lease. Each tenant housed by the City is responsible for cleaning their unit with provided supplies and removing trash from the unit. Owner is responsible for cleaning and maintaining common areas throughout the property. City will be responsible for a deep clean of the units upon termination of the lease.

8. Conduct. The City agrees all the tenants shall conduct himself or herself in a quiet, reasonable manner. Tenants shall comply with all statutes, ordinance, and regulations of all municipal, state, and federal authorities in connection with the use, occupancy, and maintenance of the Premises. If a tenant fails to conduct himself or herself according to this subsection the City may immediately remove the tenant from the Premises. The City will provide 24/7 oversight of the property.

9. No Guests. No tenant will be allowed to invite additional persons to remain in their unit overnight. If a tenant fails to abide by this requirement the tenant may be removed from the unit by the City.

10. Inspection. The City agrees to permit the Owners or their agent to enter the Premises at reasonable times and on reasonable notice for the purposes of inspection, repairs.

11. Compliance. Tenants shall comply with all statutes, ordinance, and regulations of all municipal, state, and federal authorities in connection with the use, occupancy, and maintenance of the Premises. Tenants shall comply with all the provisions of this Lease. Failure to comply with the requirements of this subsection may result in the immediate removed of a tenant from the Premises by the City.

12. Transfer. The City shall not assign this Lease nor sublet any portion of the Premises without the prior written consent of the Owners, which consent may be withheld at Owners' sole discretion.

13. Attorney Fees. If legal action is commenced to enforce any of the rights and obligations hereunder, or relating in any way to the Premises, the prevailing party shall be entitled to collect all court costs and reasonable attorney fees incurred in such action.

14. No Waiver. All rights given to the Owners by this Lease shall be

cumulative, in addition to any rights which may now or hereafter be given by law. Any exercise or failure to exercise any such rights by the Owners shall not act as a waiver of any other rights of the Owners.

15. Binding Obligation. This Lease is between the Owners and the City executing the Lease. The City shall be responsible for the full performance of all the covenants contained herein, including the timely payment of rent.

16. Additional Provisions.

A. Nothing in this Lease shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, or any other person acting on behalf of either of the Parties and, in particular, governmental immunity afforded or available to the City pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

B. This Lease shall never constitute a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City.

17. Termination.

A. This Lease shall terminate on May 30, 2020, unless the City notifies the Owner, twenty-one days prior to the end of the month, or May 9, 2020, the City intends to continue this Lease for an additional month.

B. This Lease may be terminated by either Party for a material breach of this Lease by the other Party failing to cure a material breach of this Lease within three (3) days after receiving written notice from the other Party specifying such breach. The termination notice shall specify in reasonable detail each such material breach. In the event of termination of this Lease by the Owner, the City's right to occupy and use the Premises under this Lease shall terminate. In the event of a termination of this Agreement by the Owner before the expiration of the term shall entitle the City for a pro rata share of the lease payments made and such payment shall be paid to the City within sixty-days.

C. The Owner may desire not to renew this Lease at the end of its term if the Owner notifies the City at least twenty-one (21) days in advance to the end of the term the Owner will not extend the Lease beyond its current termination date.

D. Upon termination of this Lease, whether at the expiration of the term or for an uncured material breach, the City is required to have the Premises deep cleaned by a professional cleaning company.

E. Upon termination of this Lease the City shall be responsible for the removal of all tenants housed on the Premises pursuant to this Agreement. All tenants occupy a unit on the Premises as a guest of the City and the City reserves the right to terminate any tenant's occupancy upon demand of the City without formal eviction proceedings.

18. Notices and Contact Information.

All notices, demands, orders, documents and other communications required or permitted pursuant to this Lease shall be deemed duly served when delivered in person, to the Party identified below, mailed via First-Class mail of the U.S. Postal Service, postage prepaid, or when sent via e-mail to the Party at the address below. The City shall maintain



a record of e-mail exchanges for a period of two years from the date of the e-mail. This e-mail storage record creates a presumption, and is prima facie proof, that any notice, demand, order, document or other communication was sent by the City and received by the Owner.

City: Jessica Prosser, Manager of Community Development  
9898 East Colfax Avenue  
Aurora, CO 80010  
Telephone: 303-739-7924  
E-mail: [jprosser@auroragov.org](mailto:jprosser@auroragov.org)

Owner: Limon Hospitality LLC  
Bruce Rahmani, Member, and  
Owner's Representative: Suzanne Duquette  
10 East 120<sup>th</sup> Avenue  
Northglenn, CO 80233  
E-mail: [Suzanne@coloradohospitality.com](mailto:Suzanne@coloradohospitality.com)

19. The City's Responsibilities.

A. The City shall be responsible for oversight of the property, but not for building maintenance.

B. All components of Rehabilitation of building and improvements (including interim assistance) provisions of HUD CDBG Sec. 105(a)(4) [42 U.S.C. 5305(a)(4)]; 24 CFR 570.201(f); 570.202(b) will be complied with due to the source of funding used for this lease. Funds can be used to acquire a motel or hotel building to expand capacity of hospitals to accommodate isolation of patients during recovery.

C. Provide food and necessary resources to tenants during isolation using safe and approved social distancing measures.

D. Sanitize the vacuum between uses.

E. Provide maintenance inside an occupied unit as required.

F. Deep clean each unit within 72 hours of termination of this Agreement.

20. The Owner's Responsibilities.

A. Provide trash service for the Premises.

B. Not provide room service to the units.

C. Not provide linen service to the units.

D. Provide the City with the cleaning supplies for the start of the lease. The City will provide the cleaning supplies when the initial supply provided by the Owner at the start of the lease is depleted. Vendor contact information will be provided.

E. Provide maintenance of the landscape and common area.

F. Provide WIFI, phone service, and all utilities, and ensure their operations.

G. Provide overall maintenance of the hotel. Owner will not maintain any of the sleeping rooms.

H. Provide the City and its staff access to the entire property, including but not limited to, the front desk, the laundry room, and cleaning closets.

21. Insurance. The City will provide liability insurance for the hotel guests and operators. The City shall list Limon Hospitality LLC as an additional insured in the provided liability insurance.

22. No Liability. The City agrees that the Owners shall not be liable for any damage or injury caused by a tenant. The Owners shall not be liable to any tenant as a result of their use of the Premises. The tenants of the Premises are the guest of the City. The City hereby agrees to be responsible, subject to the limitations set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., for any damages sustained from an act or omission of its public employees occurring during the employee's duties and with the scope of his or her employment while on the Premises, subject to any exclusions for punitive or incidental acts or omissions that are willful and wanton and outside the scope of the employee's duties in which case the employee may be personally responsible or where sovereign immunity bars the action against the City. The City shall not be obligated to indemnify the Owner or any tenant in any manner whatsoever for the other Party's own negligence. The Owner and the City agree to provide written notice within thirty (30) days of the knowledge of any claim or controversy. No term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provision of the Colorado Governmental Immunity Act, Colorado Revised Statutes (C.R.S.) § 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2671, et seq. in effect or hereafter enacted or amended.

23. Indemnification. Every tenant who occupies a unit of the Premises agrees to indemnify and hold harmless the Owner, the Owner's employees, the City, its elected officials, board members, and employees free and harmless from any loss, damage, liability, loss of property, liability, cost, or expense, including attorney's fees that may arise during or caused in any way by their use or occupancy of the Premises.

In WITNESS WHEREOF, the Parties have executed this Lease as of the date listed above.

***City of Aurora, Colorado:***

By: \_\_\_\_\_  
James M. Twombly, City Manager

Attest: \_\_\_\_\_  
Stephen J. Ruger, City Clerk

Approved as to Form: \_\_\_\_\_  
Tim Joyce, Assistant City Attorney

**Limon Hospitality LLC**

By: \_\_\_\_\_  
Bruce Rahmani, Member

Attachment B  
**GUEST AGREEMENT**

**IN CONSIDERATION** of the person, or persons. (the “guest”) occupying a dwelling unit (a “Unit”) at the “Hotel in Aurora” (the “Premises”), located at 1101 South Abilene Street, Aurora, Colorado, 80012. as a guest of the City of Aurora, Colorado, a home rule municipality, (the “City). Guest agrees to be bound by, and abide by, the following requirements:

**I. USE OF THE UNIT.**

**A. Single-family residential dwelling unit.** Guest shall use and occupy a Unit of the Premises as a “guest” of the City. As such, guest shall not pay any consideration to the City or the owner of the Hotel in Aurora to occupy and use a residential unit on the Premises. Guest shall only use a Unit as a private single-family residential dwelling unit, with a maximum occupancy of one family consisting of no more than 2 adults and their children. Guest shall only use the Unit for shelter for themselves or their family and shall not conduct any business or profession from or in the Unit. No parties shall be conducted in the Unit. The Social Distancing required by the Governor of the State of Colorado, the Colorado Department of Public Health and Environment, and the Tri-County Department of Health shall be practiced at all time while guest is using the Unit.

**B. Term of Agreement.** The City anticipates the use of a Unit by the guest shall be no more than two weeks. The use of the Unit by the guest may be extended only by the City. Guest may voluntarily leave a Unit prior to the termination of this Agreement.

**C. Maintenance.** Guest shall keep all portions of the Unit in clean and habitable condition and will not make any alterations to the Unit.

1. **Vacuum Weekly.** Guest shall use a vacuum provided by the City to clean the Unit at least once a week. After use of the vacuum guest shall notify the City to have the vacuum picked up and sanitized.

2. **Wash the linens weekly.** Guest shall wash the linens weekly in the laundry on the Premises.

3. **Keep the Unit and everything in the Unit in a clean and working order.** Guest shall not misuse any fixture, such as, but not limited to, the bed, nightstand, dresser, sink, and telephone.

4. **Remove all trash from the Unit daily.** Guest shall remove all trash from the Unit at least daily but more often if necessary. Guest shall deposit all trash in the dumpster on the Premises.

**D. No Smoking.** No smoking is allowed inside the Unit. Guest shall not smoke any tobacco product or any marijuana product inside a Unit. If a guest must smoke the guest shall smoke only when off the Premises.

**E. No Dangerous, flammable or explosives.** Guest shall not keep or have in their Unit anything of a dangerous, flammable or explosive character, or that might be considered hazardous or extra-hazardous by any responsible insurance company. Guest shall not permit any portion of the Unit to be used in a manner which may endanger other persons on the Premises or cause damage to the property of the Premises.

**F. Sanitation.** Guest shall comply with all sanitary laws, ordinances, rules and regulations of appropriate governmental authorities affecting the cleanliness, occupancy and preservation of the Unit.

**G. Quiet Enjoyment.** Guest shall maintain a quiet and peaceful Unit during

the entire stay in the Unit. Guest shall not play a television, radio, or other audio or electronic device so loud that it can be heard in any adjoining Unit.

H. **Right of Entry.** The City, and representatives of the City, or service representatives, shall have the right to enter the Unit for any reasonable business purpose, including maintenance and repair of fixtures, or for inspection, at all reasonable hours which, for the purposes of this Agreement are to be 8:00 a.m. to 8:00 p.m. every day. The City has the right to enter the Unit and remove the guest(s) and all the guest's personal belongings upon termination of this Agreement.

I. **Comply with all Laws.** Guest shall not violate any Federal or State law, or any municipal ordinance, in connection with the use of the Unit. No use of a controlled substance is allowed inside the Unit.

J. **No Misuse or Damage.** Guest shall not misuse or damage any fixture or the walls in the Unit. Guest shall not hang anything of the walls of the Unit.

K. **Pets.** No pets are allowed in a Unit. Pets can be held at the Aurora Animal Shelter while the guest is in a Unit on the Premises. Guest is responsible for immediately picking up their pet from the Shelter upon terminating their stay on the Premises.

## **II. INDEMNIFICATION.**

Guest agrees to defend, indemnify, and hold harmless the owner of the Hotel in Aurora, the owner's staff, (the "Owner") and the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or related to being a guest on the Premises that are due to the negligence or fault of the guest. This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the Owner and the City. Guest assumes all liability and responsibility for loss of property, injuries, claims or suits for damages to persons or property of any character, whether real or asserted, arising out of the performance of this Agreement. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, Colorado Revised Statutes (C.R.S.) § 24-10-101 *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2671 *et seq.* in effect or hereafter enacted or amended.

## **III. TERMINATION OF THIS AGREEMENT**

A. **Tenancy at Will.** Guest is being allowed to occupy a Unit of the Premises as a guest of the City. As such the guest has not paid any consideration to occupy a Unit. Guest's occupancy in a Unit is solely at the will of the City. Guest's occupancy in a Unit can be terminated by the City at any time and for any reason.

B. **Notice to Terminate.** Guest agrees the City shall be allowed to terminate this Agreement by giving guest verbal notice of its termination, including the date of the termination.

C. **Vacate Immediately.** Guest has no property rights or property interest in the Unit. Upon the termination date of this Agreement provided to the guest, guest's use of a Unit shall end immediately. Guest agrees to immediately vacate the Unit and remove all their personal belongings upon termination of this Agreement. Any personal belonging remaining in the Unit upon termination of this Agreement shall be discarded by the City.

D. **Forcible Entry and Detainer.** For the valuable consideration of being allowed to stay in a Unit on the Premise as a guest of the City, at no charge to the guest,

guest agrees the City shall not be required to take legal action to remove guest(s) from a Unit upon termination of this Agreement. Guest agrees the City may enter the guest's Unit upon termination of this Agreement, forcefully remove the guest if necessary, and remove the guest's personal belongings if the guest fails to voluntarily immediately leave the Unit upon the City's request. Guest understands, upon termination of this Agreement, if the guest fails to leave the Unit the guest can be criminally charged with trespass. If the City is required to enter the Unit and remove the guest, or the guest's personal belongings, the City will store the guest's personal belongings in a storage locker for only one week and notify the guest of the storage locker's location. Guest is responsible for retrieving their belongings from the storage locker.

**BY MY SIGNATURE BELOW, IN WITNESS OF THESE COVENANTS, CONDITIONS AND PROVISIONS IN THIS AGREEMENT, I, the guest, acknowledge that I have read and understand the provisions above described and I agree to be bound and to follow all of them.**

Start Date of Occupancy \_\_\_\_\_ Guest \_\_\_\_\_  
(Printed name)

End Date of Occupancy \_\_\_\_\_  
Signature

City Representative: \_\_\_\_\_

If more than a single person occupies a Unit each person agrees by their signature below to be bound by this Agreement.

Signatures: \_\_\_\_\_

Use the back of this Agreement for the signatures of more guests if required.

Attachment C – MHBHC Agreement

PROFESSIONAL SERVICES AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

CITY OF AURORA  
AURORA, COLORADO

TITLE:  
OPERATION OF THE  
AURORA EMERGENCY RESPITE CENTER

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Exhibit B – Insurance Requirements

Exhibit C – Requirements and Standards with Performance Measurements and Outcomes

## AGREEMENT

This Agreement is made as of the \_\_\_\_\_ day of April, 2020, by and between the City of Aurora, Colorado ("City"), and Mile High Behavioral Healthcare ("MHBHC"), a non-profit corporation of the State of Colorado; collectively referred to as the "Parties," individually referred to as a "Party."

WHEREAS, the City intends that MHBHC shall perform professional services for the City as contemplated by this Agreement; and

WHEREAS, MHBHC represents that it has the present capacity, is experienced and qualified to perform professional services for the City as hereinafter provided in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

### **Section 1 - Purpose.**

The purpose of this Agreement is to provide Emergency Solutions Grant (ESG) funding to MHBHC to operate the Aurora Emergency Respite Center, located in a hotel at 1101 South Abilene Street, Aurora, Colorado, 80012, the City has leased to shelter individuals experiencing homelessness and other vulnerable housing situations, who are in need of safe quarantine space and are referred by a hospital or other medical facility. The hotel space is an expansion of the services provided at the Aurora Day Resource Center located at 13387 East 19<sup>th</sup> Place, Aurora, Colorado, 80011, and is strongly urged by the Colorado Department of Public Health and Environment, Public Health Order 20-24 due to the coronavirus COVID-19 declared emergency.

### **Section 2 - Scope of Work**

A. MHBHC agrees to provide professional services as stated in the scope of work ("Work")

B. The City shall have the right to disapprove any portion of MHBHC's Work on the Project which does not comply with the requirements of this Agreement. If any portion of the Work is not approved by the City, MHBHC shall proceed when requested by the City with revisions to the Work to attempt to satisfy the City's objections. If said revised Work is acceptable, the City will provide prompt written approval. Correction or completion of Work which does not comply with the requirements of this Agreement shall be made without adjustments to the compensation for MHBHC's services provided for hereunder unless the revisions are made to Work previously approved for previous tasks, in which case, MHBHC's compensation shall be adjusted. It is the intent of the parties that MHBHC shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, services or other work, without additional cost to the City. The acceptance of MHBHC's services by the City shall not relieve MHBHC from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness resulting from MHBHC's negligent



acts, errors or omissions.

C. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any tasks beyond those which have been specifically authorized in writing by the City.

D. The City may, from time to time and in conjunction with MHBHC, request changes in the scope of the services of the MHBHC to be performed herein. Changes may include, but not be limited to, the type and scope of services provided by MHBHC, the duration of the services to be provided, and the quantity or quality of MHBHC's staffing for required services. Such changes, including any increase in the amount of the MHBHC's compensation, which are mutually agreed upon between the City and MHBHC, shall be incorporated in written change orders, amendments or extensions to this Agreement.

E. Follow the Written Standards, Performance Standards, Centralized and/or Coordinated Assessment System, Homeless Participation and Monitoring as described in the Requirements and Standards, Exhibit C.

### **Section 3 - Authority**

A. Shelley McKittrick ("Project Manager") is the City's Project Manager and the City's authorized representative. The Project Manager is responsible for authorizing and approving all Work performed under this Agreement. All Work to be performed by MHBHC shall be authorized in writing by the Project Manager as provided by this Agreement. All communications related to the Project shall be with the Project Manager and, in his/her absence, a person to be designated by him/her. The Project Manager is authorized to make decisions on behalf of the City related to the Work. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of Work performed by MHBHC, except for approvals which are specifically identified in this Agreement as requiring the approval of City of Aurora's City Council.

B. Robert "Bob" Dorshimer ("MHBHC's Representative") is MHBHC's representative for the Work. MHBHC's Representative shall have sufficient authority to represent and bind MHBHC in those instances when such authority is necessary to carry out MHBHC's responsibilities and obligations under the terms of this Agreement.

### **Section 4 - Term**

A. In performing professional services pursuant to this Agreement, MHBHC acknowledges that timely completion of the Work is critical, and time is of the essence. Accordingly, all services to be performed under this Agreement shall be commenced immediately upon execution of this Agreement by the parties hereto, approval by the City as required by applicable law.

B. The initial term of this Agreement shall run from April 1, 2020 and terminate on May 30, 2020. The City shall have the option to renew this Agreement on a monthly basis by a written notice to MHBHC.

## **Section 5 - Compensation**

A. The compensation to be paid MHBHC under this Agreement shall come from ESG funding and is intended to cover the entire cost of the professional services under this Agreement. The initial compensation of this Agreement shall not exceed One Hundred Thirty-Nine Thousand, Thirty-Six dollars and 67/100 (\$139,036.67) for the anticipated two-month term of this Agreement. If this Agreement is extended an additional month(s) the MHBHC shall be paid an additional Sixty-Nine Thousand, Five Hundred Eighteen dollars and 33/100 (\$69,518.33) per month. MHBHC agrees to cooperate fully with the City to keep the total compensation within this limit.

B. Nothing in this Agreement is a pledge of the City's credit, or a payment guarantee by the City to MHBHC. The obligation of the City to make payments hereunder shall constitute a currently budgeted expense of the City, and nothing contained herein shall constitute a mandatory liability, charge, or requirement of or against the City in any ensuing fiscal year beyond the then current fiscal year. Nothing in this Agreement shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20, or of the Charter and ordinances of the City. In the event of a default by the City of any of its obligations under this Agreement, the Contractor shall have no recourse against any revenues of the City. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien against any revenues of the City.

C. Disbursement of Funds.

ESG funds shall not be obligated or utilized for any activities requiring a release of funds by the City under the Environmental Review Procedures for the ESG program at 24 CFR Part 58 until release is issued in writing. For categorically excluded activities listed in 58.35(a) determined to be exempt because there are no circumstances which require compliance with any Federal laws and authorities cited at 58.5 the City must make and document such a determination of exemption prior to incurring costs for such activities.

1. ESG Funds shall be made available to MHBHC subject to the terms and conditions of this agreement, and documentation evidencing the propriety of the proposed use of Emergency Solutions Grant funds with each draw-down request. Emergency Solutions Grant funds shall be disbursed to MHBHC in the following manner described:
2. After the submission of the following documents: Payment vouchers, performance reports, paid receipts, supporting documentation of matched funds attached with every payment request; and upon the City's review and approval, the City shall issue a check within its standard accounts payable procedures, 21 days from the receipt of invoice packet.

## **Section 6 - Staffing**

- A. MHBHC shall provide enough personnel as is essential to the proper

performance of the services contemplated under this Agreement, which includes providing staffing 24 hours a day, seven days a week for the duration of this Agreement for the Aurora Emergency Respite Center located at 1101 South Abilene Street, Aurora, Colorado, 80012, and as may be similarly need for the Aurora Day Resource Center located at 13387 East 19<sup>th</sup> Place, Aurora, Colorado, 80011.

B. MHBHC shall insure the quality, timeliness, and continuity of services are maintained through the duration of the project.

C. MHBHC shall inform the City in writing of any non-employee persons or firms it intends to hire to perform any Work required by this Agreement and shall keep the City informed of any changes or additions to this information. The City shall approve in writing any additional firms prior to commencement of Work. MHBHC shall be responsible for any Work performed under this Agreement, including that portion of the Work performed by other individuals or firms. Nothing contained herein shall create any contractual relationship between any additional persons and/or firm(s) and the City.

**Section 7 – Subcontracting with The Salvation Army to provide meals to the individuals sheltered at the Aurora Emergency Respite Center.**

A. MHBHC shall subcontract with The Salvation Army, a California corporation, located at 30840 Hawthorne Boulevard, Rancho Palos Verdes, California 90275 and designated by Federal Employer Identification Number 94-1156347 (“TSA”), acting through its Intermountain Divisional Headquarters, 1370 Pennsylvania St., Denver CO 80203, to provide food for the individuals sheltered at the Aurora Emergency Respite Center.

B. The cost of meals shall be:

Breakfast:	\$5.75
Lunch:	\$8.50
Dinner:	\$9.75

C. The meals will be billed based on the quantity ordered and not the quantity used or picked-up. TSA shall invoice MHBHC and MHBHC shall forward the invoice to Shelley McKittrick for payment.

D. Changes to the menu or menu prices must be agreed to by the Parties. Changes will not go into effect until three-days after the agreed upon change(s).

E. Meals will be picked up between 4:00 p.m. and 4:30 p.m. at the location designated by The Salvation Army.

F. Delivery bins must be returned to The Salvation Army on the next pick-up day.

**Section 8 - Records to HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS)**

MHBHC shall keep accurate books and records of accounts in accordance with

generally accepted accounting principles of all expenditures made and all costs and liabilities incurred utilizing Program Funds and Program Income. The accounts and all project records shall be made available upon request by the City, U.S. Department of Housing and Urban Development (HUD), or any other federal agency for examination and audit. All books and records of accounts must be retained for four (4) years from the date of this agreement.

According to the March 2010 HMIS Data Standards, a bed or service is considered participating in HMIS “if the provider program makes a reasonable effort to record all universal data elements on all clients served in that bed (or service) and discloses that information through agreed upon means to a HMIS Lead Agency at least once annually.” For domestic violence agencies, a comparable data base should be utilized.

MHBHC shall keep accurate books and records as indicated below:

1. Name, social security number, date of birth, race, ethnicity, gender, veteran status, disabling condition, residence prior to program entry, zip of last permanent address, housing status, program entry date, program exit date, personal identification number, household identification number, income and cash benefits, dates of contact, dates of program engagement, destination (helps to measure housing outcomes), description of the beneficiaries of the ESG project—(such as mentally ill, runaway youth, battered spouse), residential services, non-residential services, shelter type.
2. Number of participants served under this Agreement.
3. MHBHC shall maintain compliance with MDHI’s ESG HMIS Agency Data Sharing Agreements.
4. MHBHC shall enter data in a timely manner into the HMIS data system, within 2 days of client contact.

## **Section 9 - Performance Reporting.**

MHBHC will submit the following reports on project performance at the request of, and in the format prescribed by, the City:

End report, which include HMIS and the City’s Narrative report, are due within thirty (30) days of the end of this Agreement. There is no longer an extended grace period for quarterly reports. Late HMIS and Narrative reports may affect future grant allocations.

Year End report (HMIS and the City’s Narrative report) are due within thirty (30) days of December 31, 2020, due on or before January 30, 2021.

Year End 2020 HMIS SAGE report is due within 30 days of December 31, 2020. There is no longer an extended grace period. Late HMIS SAGE

reports may affect future grant allocations.

MHBHC, which is a non-federal agency, that expends \$750,000 or more during the MHBHC's fiscal year, shall have a single audit conducted for that year in accordance with the provisions 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", "Super Circular", Audit shall be completed within nine (9) months of the MHBHC's audit period and a copy of the most recent audit shall be forwarded to the City within thirty (30) days of completion.

MHBHC shall keep accurate books and records on the number of persons served or benefiting from this project activity including these characteristics: Five single - race categories; White, Black/African American, Asian, American Indian / Alaskan native, Native Hawaiian / Pacific Islander. Multi-race categories: American Indian/Alaskan Native & White; Asian & White; Black/African American & White; American Indian/Alaskan Native & Black/African American; and Other Multi-racial, Ethnicity: Hispanic/Non-Hispanic; extremely low, very low, and low-to-moderate household income (homeless are presumed extremely low-income at 0 – 30% or the Area Median Income); elderly (62 years of age or older); disabled; and female head of household.

A copy of the most recent Annual Report prepared by MHBHC will be forwarded to the City as applicable.

Performance Monitoring and Performance Measures - The federal Department of Housing and Urban Development (HUD) and Continuum of Care (CoC) Program Interim Rule requires project level and system level performance monitoring and project level compliance monitoring. This requires poor performers to improve or possible action to be taken.

The CoC/ESG Performance Monitoring and Evaluation Policies and Procedures document establishes the process by which the CoC will:

1. Set annual performance measures and targets in consultation with the COC Board.
2. Monitor CoC and ESG recipient performance.
3. Evaluate and report outcomes.
4. Provide technical assistance to poorly performing projects.
5. Identify poor performers for technical assistance or further action. See 24 CFR 578.7(a)(6) and 24 CFR 578.65, Subpart E.

## **Section 10 -Uniform Administrative Requirements.**

MHBHC, as applicable to a governmental or nongovernmental agency, shall comply with the requirements and standards of 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225 and 230, "Uniform Administrative Requirements, Cost Principles, and Audit

Requirements for Federal Awards” aka “Super Circular”; and shall comply with applicable sections of 79 FR 75871 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

MHBHC shall make accurate, current, and complete disclosure of the financial results of assisted activities from ESG Funds and must safeguard and ensure that ESG Funds are used solely for authorized purposes. Accounting records must be supported by canceled checks, paid bills, payrolls, time and attendance records, contractual documents, or other acceptable source documentation.

If MHBHC shall procure services with ESG Funds for an authorized use as outlined in this agreement, MHBHC shall maintain records sufficient to detail the significant history of a procurement of which records shall include a minimum of: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. MHBHC shall have protest procedures to handle and resolve disputes relating to their procurement and shall in all instances disclose information regarding the protest to the City. MHBHC shall maintain a code of conduct to prevent conflicts of interest (personal, financial, and organizational) and use solicitations which are clear and accurately describe the materials, products, or services being procured. MHBHCs must initiate positive efforts to use small and minority-owned business to the maximum extent possible; include all applicable contract provisions in contracts; and not use the cost-plus-percentage of cost contracts. All procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319.

Per, HUD Regulation found at 570.502, 570.610, and 79 FR 75871, Small Purchasing Procedures allow recipients to acquire goods and services totaling no more than \$100,000. However, the purchase of goods and services with federal funding provided by the City of Aurora will adhere to the City’s Purchasing Policy which is more restrictive and limits these Micro purchases to under \$5,000.

#### **Section 11 - Care of Personal identifying information:**

##### **A. Definitions:**

Personal identifying information means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver’s license or identification card number; a government passport number; biometric data (unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she access an online account); an employer, student, or military identification number; of a financial transaction device (any instrument or device whether known as a credit card, banking card, debit card, electronic fund transfer card, or guaranteed check card, or account number representing a financial account or affecting the financial interest, standing or obligation of or to the account holder, that can be used to obtain cash, goods, property, or services or to make financial payments, but shall not include a :check”, a “negotiable order of withdrawal”, and a “share draft”.)

**B. Reasonable security practices.** Third-party MHBHCs are be required to implement and maintain reasonable security and practices to protect personal identifying

information that are:

- Appropriate to the nature of the personal identifying information disclosed to the third-party provider; and
- Reasonably designed to help protect the personal identifying information from unauthorized access, use, modification, disclosure, or destruction.

C. Use of personal identification information. Personal identification information shall only be used for the purpose necessary to provide the services provided by the third-party MHBHC. Third-party MHBHCs shall not disclose any personal identification information to anyone or any entity except those contemplated by this Agreement. Personal identification information shall not be sold or used for commercial purposes. MHBHC is solely responsible for any foreseeable consequences of a security breach and shall indemnify, defend, and hold harmless the City for all security breaches.

D. Disposal of personal identifying information. An annual review/audit for all personal identifying information is required to be performed by the third-party MHBHC. Third-party MHBHCs are required to destroy or arrange to be destroyed all paper or electronic documents that are no longer necessary to provide services. Paper documents shall be shredded before they are discarded. Electronic documents shall be erased from all electronic devices when the information is no longer necessary to provide services.

E. Disclosure of breach. When a third-party MHBHC becomes aware that a security breach may have occurred the third-party must follow the procedures in Colorado Revised Statutes (C.R.S.) § 6-1-716 and conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that personal information has been or will be misused in addition to the resident that must be notified the third-party MHBHC shall also notify the Community Development Division of the breach.

## **Section 12 – Avoidance of Conflict of Interest**

The federal regulations at 24 CFR 576.404 describe the conflict of interest requirements as follows:

No person who is an employee, agent, consultant, officer, or elected official or appointed official of the City or Subrecipient, who exercise or have exercised any functions or responsibilities with respect to activities funded by ESG Funds, who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from an activity assisted with ESG Funds, or have a financial interest in any contract, subcontract, or agreement with respect to an activity funded with ESG Funds, or with respect to the proceeds of the assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

MHBHC shall comply with all federal provisions and Colorado Revised Statutes, as applicable, regarding the avoidance of conflict of interest.

## **Section 13 - Certification of Non-Debarment.**

MHBHC certifies, by acceptance and execution of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees, by accepting and executing this Agreement, that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

#### **Section 14 - Insurance**

A. MHBHC shall provide the appropriate certificates of insurance and Worker Compensation documents, at no cost to the City, as described in Exhibit B. The MHBHC further agrees and understands that they are to maintain and keep in force the appropriate insurance policies throughout the term of this Agreement.

B. MHBHC shall be responsible for any injury to persons or damage to property to the extent arising from negligent or otherwise wrongful acts, errors and omissions of MHBHC, its agents and employees. If MHBHC knows of the damage MHBHC shall immediately notify the City. If the City discovers the damage, City will notify MHBHC immediately. Repair shall be accomplished under City direction and to City specifications, so property is in as good or better condition than before damage. MHBHC shall provide the City with a certificate of liability coverage in accordance per the attached form 410-33, Exhibit B.

C. The MHBHC's policy will be primary and non-contributory with respect to all insurance policies purchased by the additional insured.

#### **Section 15 – Other Program Requirements**

A. This Agreement does not guarantee to MHBHC any additional or future work except as expressly authorized herein.

B. This Agreement does not create or imply an exclusive agreement between MHBHC and the City.

C. The services and all interests contemplated under this Agreement shall not be assigned or otherwise transferred except with the written consent of the City.

D. All documents of any nature prepared by MHBHC in connection with the services provided by MHBHC under the terms of this Agreement shall become the property of the City.

E. MHBHC shall not utilize work product, data, information, results, and materials produced as part of its efforts under this Agreement for any promotional or public relations purposes whatsoever without the express, prior, written consent of the City.



F. MHBHC shall carry out the activities under this agreement in compliance with all Federal laws and regulations as described in 24 CFR 570 Subpart K.

G. No person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded with ESG Funds.

H. No ESG Funds provided under this agreement shall be expended for acquisition or construction or rehabilitation purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the locality in which the area is situated is participating in the National Flood Insurance Program and flood insurance is obtained in accordance with federal provisions.

I. To the greatest extent feasible, and in accordance with existing federal, state, and local laws, MHBHC, under Section 3 of the Housing and Urban Development Act of 1968, shall provide employment and other economic opportunities arising in connection with activities assisted with ESG Funds for housing rehabilitation, housing construction, or other public construction, to low and very low income persons.

J. MHBHC shall not directly or indirectly employ, award contracts to, or engage the services of, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status.

K. MHBHC shall not provide financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available through activities assisted with Program Funds to certain newly legalized aliens as described in 49 CFR 24.208.

L. MHBHC shall carry out the activities under this agreement in compliance with all federal laws and regulations as described in 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the U.S. Department of Housing and Urban Development.

## **Section 16 - Termination of this Agreement**

A. Termination for Cause. If through any reason, the MHBHC fails or refuses to:

- 1, Provide all of the services described and contemplated by this Agreement in a timely and proper manner.
2. Perform any other of the material covenants, agreements, or conditions made by MHBHC herein.
3. Provide services in a manner that does not cause or permit disturbances or activities offensive to the senses of the average citizen or hinder the health, safety, or welfare of the community.

4. In accordance with federal provisions, suspension and termination may occur if MHBHC materially fails to comply with any term of the award, an “Event of Default,” and that the award may be terminated for convenience. The City may suspend or terminate payment for the project in whole, or in part, for cause. Cause shall include but not be limited to the following:
  - a. Improper use of ESG Funds.
  - b. Failure to comply with either, the terms and conditions of this agreement or the services to be provided as described in the Section 3, "Statement of Work", of this Agreement.
  - c. If, for any reason, the carrying out of the agreement is rendered impossible or unfeasible.
  - d. Non-appropriation of or receipt of funds from the U.S. Department of Housing and Urban Development.
  - e. Failure to comply with any applicable local, state, and federal laws and regulations.

If the City withholds disbursement requests for ESG Funds, it shall advise MHBHC and specify the actions that must be taken, in writing, in case of suspension, as a condition precedent to the resumption of payments and specify a reasonable date for compliance.

B. Event of Default. MHBHC shall be given either verbal or written notice by the Project Manager, specifying the nature of the default and requesting the MHBHC to correct the violation within one (1) day from the date of such notice (the “Cure Period”). In the event of a default by the MHBHC the City, in its sole discretion, may cease making any payments of City Funds pursuant to this Agreement until such time the default specified in the written notice is remedied to the City’s satisfaction. The City may also seek a refund of the portion of funds paid to Service Provide not yet earned by the MHBHC.

Notwithstanding the above, the MHBHC shall not be relieved of liability to the City for any damages sustained by the City by virtue of any default or breach of the Agreement by the MHBHC, and the City may withhold any payments to the MHBHC for the purpose of setoff until such time as the exact amount of damages due the City from the MHBHC is determined.

C, Termination for Convenience.

1. Change in City Policy. The City may terminate this Agreement at the end of the two-month term of this Agreement. If this Agreement is extended an additional month or months this Agreement shall terminate at the end of the final month of this Agreement.

2. The City's total liability for termination of this Agreement shall not exceed the lesser of total amount of this Agreement or the total amount of funds which have been appropriated specifically for this Agreement.
3. MHBHC shall be entitled to reasonable incurred costs for terminating its activities under this Agreement, including those of its subcontractors, if this Agreement is terminated for the City's convenience, provided however, in no event shall the City's total liability to MHBHC exceed the total amount of funds which have been appropriated for this Agreement.
4. The City may terminate this Agreement at any time the City determines that the purposes of the distribution of City ESG monies under the Agreement would no longer be served by completion of the Project. The City shall effect such termination by giving written notice of termination to MHBHC and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 8 above shall, at the option of the City, become the City's property. If the Agreement is terminated by the City as provided herein, MHBHC will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of MHBHC covered by this Agreement, less payments of compensation previously made: provided, however, that if less than sixty percent (60%) of the services covered by this Agreement have been performed upon the effective date of such termination, MHBHC shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by MHBHC during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of MHBHC, Paragraph 7 hereof relative to termination shall apply.

D. Effect of Termination

1. Termination Costs. After receipt of notification that this Agreement has been terminated under this section, MHBHC shall incur no further costs other than reasonable termination costs associated with current activities.
2. Ownership of Work Product. In the event of termination, all finished and unfinished Project deliverables prepared by MHBHC pursuant to this Agreement shall become the sole property of the City, provided MHBHC is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. MHBHC shall not be liable with respect to the City's subsequent use of any incomplete work product, provided MHBHC has notified the City in writing of the incomplete status of such work product.

3. City's Right to Set-Off and other Remedies. Termination shall not relieve MHBHC from liability to the City for damages sustained as the result of MHBHC's breach of this Agreement; and the City may withhold funds otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.
4. If this Agreement terminated for cause as provided in this section and it is subsequently determined that the City's termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this section related to a termination for convenience shall apply.

### **Section 17 - Miscellaneous Provisions**

A. MHBHC, at all times, agrees to observe all applicable Federal and State of Colorado laws, Ordinances and Charter Provisions of the City of Aurora, and all rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement.

B. MHBHC shall not discriminate against any employee or applicant for employment based on race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. MHBHC:

1. Shall adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship
2. Shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause. All solicitations and advertisements for employees placed by or on behalf of the MHBHC, shall state that MHBHC is an equal opportunity employer.
3. Shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by MHBHC, so that such provisions are binding upon each sub-MHBHC.
4. Shall keep such records and submit such reports concerning the racial and ethnic origin of employees and of applicants for employment as the United States, the State of Colorado, the City of Aurora, or their respective agencies may require.
5. Shall comply with such rules, regulations and guidelines as the United States, the State of Colorado, the City of Aurora, or their respective agencies may issue to implement these requirements.

C. By executing this agreement, MHBHC acknowledges an understanding of and expressly agrees that all work performed under this Agreement is that of an independent contractor. An independent contractor is not a City employee and as such is not entitled to Workers' Compensation benefits. MHBHC is obligated to pay Federal and state income tax on any monies earned pursuant to the contractual relationship. It is expressly understood between the City and MHBHC that MHBHC, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by MHBHC.

**Section 18 - Notices.**

All notices, demands, or other documents or instruments required or permitted to be served upon either Party hereto shall be in writing and shall be deemed duly served when delivered in person to an officer or partner of the Party being served, by facsimile transmission or when mailed certified or registered mail, return receipt requested, postage prepaid addressed to parties at the addresses stated below:

City: Office of the City Attorney  
15151 East Alameda Parkway  
Aurora, Colorado 80012

MHBHC's Representative: Mile High Behavioral Healthcare  
Attn: Robert "Bob" Dorshimer  
P.O. Box 919  
Aurora, Colorado 80040

**Section 19 - Illegal Alien**

A. UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS: MHBHC shall not knowingly employ or contract with illegal aliens to perform work under this Agreement. MHBHC shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with illegal aliens to perform work under this Agreement and (b) fails to certify to the MHBHC that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement.

B. VERIFICATION REGARDING ILLEGAL ALIENS: By executing this Agreement, MHBHC confirms the employment eligibility of all employees who are newly hired for employment to perform work pursuant to this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

C. LIMITATIONS: MHBHC shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

D. DUTIES OF MHBHC: If MHBHC obtains actual knowledge that a

subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the MHBHC shall be required to:

1. Notify the subcontractor and the City within three days that the MHBHC has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the MHBHC shall not terminate the contract with the subcontractor if the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

E. DUTY TO COMPLY WITH STATE INVESTIGATION: MHBHC shall comply with any request made by the Colorado Department of Labor or the City during an investigation that the Department or the City is undertaking

F. DAMAGES: Notwithstanding any other provisions within this contract, if the MHBHC violates any of the above provisions regarding illegal aliens the City may terminate this contract for cause and the MHBHC may be liable for consequential damages.

## **Section 20 - Indemnification**

A. The MHBHC shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of MHBHC's services for the City and caused by negligent acts, errors, and omissions of the MHBHC or any person employed by it or anyone for whose act the MHBHC is legally liable.

B. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of MHBHC hereunder. MHBHC shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.

C. Patents Infringement: The MHBHC shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the services under this Agreement. The MHBHC's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the MHBHC pursuant to this Agreement. MHBHC shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or

caused to be made by the City subsequent to delivery by the MHBHC. MHBHC also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.

D. MHBHC agrees that it will contractually obligate its subcontractors to indemnify and hold harmless the indemnitees identified in this Section to the same extent that MHBHC is required to indemnify and hold harmless said indemnitees.

**In WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written.

**CITY OF AURORA, COLORADO**

By: \_\_\_\_\_  
James M. Twombly, City Manager

By: \_\_\_\_\_  
Nancy Sheffield, Interim Neighborhood Services Director

By: \_\_\_\_\_  
Jessica Prosser, Community Development Manager

ATTEST:

\_\_\_\_\_  
Stephen J. Ruger, City Clerk

RISK MANAGEMENT:

\_\_\_\_\_  
Renee Pettinato Mosley, Risk Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Tim Joyce, Assistant City Attorney

**MILE HIGH BEHAVIORAL HEALTH CARE - MHBHC**

By: \_\_\_\_\_  
Robert "Bob" Dorshimer, CEO

ATTEST: \_\_\_\_\_  
Candace S. Larue, Manager of Grants





## **EXHIBIT B INSURANCE REQUIREMENTS**

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During the term of this Agreement and until final acceptance by the City of all work covered by the Purchase Order or contract, the Vendor performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance, as indicated below, covering the Vendor, their employees, subcontractors or representatives, along with: the activities of any and all subcontractors retained by the Vendor or Subcontractors, the activities of anyone employed by any Vendor, Subcontractors, their representatives or anyone for whose acts they may be liable.

**Commercial General Liability Insurance.** The Vendor shall maintain commercial general liability insurance covering all operations by or on behalf of the Vendor on a per occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Coverage will include, if appropriate for the scope of services: Products and Completed Operations, Contractual Liability and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

**Minimum limits:**

\$1,000,000 each occurrence

\$2,000,000 general aggregate

\$1,000,000 products and completed operations

**Workers' Compensation and Employers Liability Insurance.** The Vendor shall maintain Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Vendor shall maintain Employers Liability Insurance with minimum limits of \$500,000 bodily injury for each accident, \$100,000 bodily injury by disease each employee and \$500,000 bodily injury disease aggregate.

**Limits of Insurance.** The total limits of general and excess liability insurance set forth above may be provided to the City using a combination of primary and excess liability insurance.

**Additional Insured and Waiver of Subrogation.** The Vendor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability and Excess Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements.

**Certificates of Insurance.** Upon the execution of this Agreement, the Vendor shall provide certificates of insurance to the City of Aurora demonstrating that

at the minimum coverages required herein are in effect. Vendor agrees that the required coverages will not be reduced, canceled, non-renewed or materially changed without Thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of Vendor's or its subcontractor's coverage is renewed at any time prior to completion of the services, the Vendor shall be responsible for obtaining updated insurance certificates for itself and such subcontractor from the respective insurance carriers and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate.

The minimum A.M. Best rating of each primary insurer shall be A- VII and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Vendor shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances giving rise to the contract. **The Vendor's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.**

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the contract shall also be protected by a Professional Liability Insurance policy as set forth below:

**Professional Liability Insurance.** The Vendor shall maintain professional liability insurance with minimum limits of One Million Dollars (\$1,000,000), covering those claims which arise out of the negligent acts or omissions of the Vendor, its Subcontractor and any other parties for whom it may be liable including without limitation, bodily injury, personal injury, and property damage. Professional Liability Insurance shall be carried on a claims-made basis maintained in full force and effect for the term of this Agreement and, to the extent possible, for a minimum period of Three (3) years after the completion of any and all of Vendor's Services hereunder. Any retroactive date or prior acts exclusion to which such coverage is subject shall pre-date both the date upon which any services hereunder are commenced and the date of this Agreement. In the event that coverage is renewed during the original term of any subsequent term of this agreement, endorsement(s) for the new policy(ies) shall be delivered within five (5) days of the expiration date of any previously delivered certificate.

## EXHIBIT C – REQUIREMENTS AND STANDARDS

Written Standards, Performance Standards,  
Centralized and/or Coordinated Assessment System, Homeless Participation, and  
Monitoring

### Written Standards Checklist for the Emergency Solutions Grant Program

The U.S. Department of Housing and Urban Development requires sub-recipients to develop and implement Written Standards for programs provided through the Emergency Solutions Grant Program. The following guidelines must be followed when developing these Standards. Standards for emergency shelter programs will be different than Standards for homelessness prevention and rapid re-housing programs, so agencies must ensure that the Standards developed are appropriate for programs offered. Enter a checkmark next to applicable areas as the Standards are completed to ensure all aspects of the requirements are met.

ALL PROGRAMS	MARKED AS IMPLEMENTED
1. Standards include the area of service where assistance shall be offered.	
2. Standards include all type(s) of assistance that will be offered through the ESG program.	
3. Standards summarize the procedure in place that defines how program participants will be evaluated for eligibility of assistance under the ESG program. (Note: DV shelters must follow the requirements of the Violence Against Women Act and the Family Violence Prevention and Services Act which prohibits agencies from making its shelter or housing conditional on the participant's acceptance of service)	
4. Standards include procedures describing the coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers, other homeless assistance providers, and mainstream service and housing providers.	
5. Standards include a list of available programs that program participants will be referred, including all programs reflected in 576.400 (b) and (c) such as Shelter + Care, VASH Voucher, Section 8, Emergency Food and Shelter program, etc. if available to program participants in the agency's area of service.	
6. Standards describe the formal termination process established by the agency that recognizes the rights of individuals affected. The agency must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.	
7. Standards describe the program participant's formal grievance process. Included shall be the right for the participant to contact the agency's Director, the Housing Division or HUD.	
8. Standards include summaries regarding the requirement that clients served	

and activities provided with ESG funds will be entered into HMIS (or comparable database if a DV shelter), the timeframe for data to be entered, and the process for ensuring confidentiality of client records.	
9. Standards include steps used to ensure clients receiving ESG assistance are provided all applicable HMIS releases, forms, client complaint process, etc. as required by HMIS regulations.	
<b>STREET OUTREACH/ EMERGENCY SHELTER- OPERATIONS/EMERGENCY SHELTER-ESSENTIAL SERVICES</b>	
1. Standards include a summary of how agency staff will target and provide services related to street outreach.	
2. Standards include steps for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay limits, if any, and safeguards to meet the safety and shelter needs of special populations, such as victims of domestic violence, sexual assault, etc.	
3. Standards include steps for admission, diversion, referral and discharge by emergency shelters assisted under ESG for individuals and families who have the highest barriers to housing and are likely to be homeless the longest.	
4. Standards include assessing, prioritizing, and reassessing individuals and families' needs for essential services related to emergency shelter.	

I certify that the Written Standards developed for the Emergency Solutions Grant Program (ESG) follow guidelines reflected above and the regulations under 24 CFR Part 576. A copy of the Written Standards that will be used by all agency staff who will participate in the ESG program is on file.

\_\_\_\_\_  
Printed Name of Agency Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## **PERFORMANCE MEASUREMENTS AND OUTCOMES**

All ESG proposals must address all applicable Performance Measurements and Outcomes.

I have read the performance and outcome measurements as shown below, understand that these may be used in making funding decisions, and that they may differ from measurements required by HUD.

### **Performance Measurements and Outcome Requirements**

**Objective:**

Increase access to affordable housing options for Aurora residents and reduce or prevent the incidents of homelessness by meeting critical emergency housing needs through the development and maintenance of quality affordable housing and the strengthening of human services delivery.

**Outcomes:**

1. End chronic homelessness and move homeless families and individuals into permanent housing.
2. Availability/accessibility for the purpose of creating suitable living environments.
3. Promote self-sufficiency, efficient use of funds and effective program administration.

**Performance Measures/Indicators (Applies to all ESG funded projects):**

- Number of homeless persons receiving case management who move into safe and stable housing.
- Average cost per person receiving ESG assistance.
- Recipient expended all ESG funds within the established grant timeframe.
- Recipient met the deadline for submitting their signed grant agreement.
- Recipient met the deadline for submitting evidentiary documents.
- Recipient met the deadline for submitting performance reports.
- Recipient meets required standards for documentation of homelessness.
- Recipient complies with required record keeping methods.
- Recipient complies with the due process of terminating ESG funded assistance of participant.
- Does recipient have current non-corrected and/or corrected findings from previous compliance reviews?

**Performance Measures/Indicators specific to ESG-Funded Shelter and Transitional Housing:**

- Number of homeless persons receiving case management who move into safe and stable housing.
- Average cost per person receiving ESG assistance.
- The total number of adults and children served on an annual basis (reported under Residential Services).
- The number of persons served by race and ethnicity.

**Performance Measures/Indicators specific to ESG-Funded Essential Services:**

- Number of homeless persons that received ESG funded services concerned with employment.
- Number of homeless persons that received ESG funded services concerned with health.
- Number of homeless persons that received ESG funded services concerned with substance abuse.
- Number of homeless persons that received ESG funded services concerned with education.
- Number of homeless persons that become successfully independent of ESG funded services.
- Number of homeless persons that return to their prior living situation.
- The total number of adults and children served on an annual basis (reported under Non-Residential Services).
- The number of persons served by race and ethnicity.

**HUD's 2014 National Objectives on Performance (HUD's next update 2019):**

- 1) Create new permanent housing beds for chronically homeless persons.
- 2) Increase the percentage of participants remaining in CoC-funded permanent housing projects for at least six months to 80% or more.
- 3) Increase the percentage of participants in CoC funded transitional housing that move into permanent housing to 80% or more.
- 4) Increase the percentage of participants in all CoC funded projects that are employed at program exit to 20% or more.
- 5) Increase the percentage of participants in all CoC funded projects that obtain mainstream benefits at program exit to 56% or more.
- 6) Increase the percentage of participants in all CoC-funded projects that obtained or

increased income from other sources (i.e. cash benefits) at program exit to 54% or more.

- 7) Decrease the number of homeless households with children.

The City will coordinate with the CoC to meet new applicable HUD Objectives when released by HUD. The CoC shall seek to accomplish HUD's Objectives as an average for the whole CoC: individual CoC funded projects are not required to accomplish the Objectives individually. MHBHC shall seek to meet the current HUD Objectives to the maximum extent practical. The CoC will use the HMIS system to measure these outcomes.

**Performance Monitoring and Performance Measures** - The federal Department of Housing and Urban Development (HUD) and Continuum of Care (CoC) Program Interim Rule requires project level and system level performance monitoring and project level compliance monitoring. **This requires poor performers (recipients and subrecipients) to improve or possible action to be taken.**

The CoC/ESG Performance Monitoring and Evaluation Policies and Procedures document establishes the process by which the CoC will:

- 1) Set annual performance measures and targets in consultation with the COC Board;
- 2) Monitor CoC and ESG recipient performance;
- 3) Evaluate and report outcomes;
- 4) Provide technical assistance to poorly performing projects; and
- 5) **Identify poor performers for technical assistance or further action. See 24 CFR 578.7(a)6 and 24 CFR 578.65, Subpart E.**

**Performance Measurements/Indicators specific - to "Aurora@Home", the City of Aurora's Ten Year Plan to Prevent and End Family Housing Loss**

- 1) Reduce the unsheltered homeless population of the Aurora Area
- 2) Reduce the recipient's average length of times stayed for clients served in your program
- 3) Document the percentage of persons exiting the program who transition to permanent housing
- 4) Percentage of persons exiting your program who leave with employment income.
- 5) Percentage of persons who remain engaged in substance abuse counseling and mental health counseling services after leaving your program.
- 6) Percentage of persons who exit and return to homelessness within 3 months.

**Goals:**

### **Goal 1: Prevention**

Assist at-risk families in obtaining Aurora@Home Services at the earliest possible point in time to reduce risk and prevent housing loss.

**1.1.2** Develop clear entry points through current MHBHCs to quickly assess needs and develop service plans.

### **Goal 2: Emergency Shelter and Rapid Re-Housing Efforts:**

Improve housing outcomes for Aurora's displaced families by increasing needed housing capacity and ensuring access to the most appropriate housing options

**2.3.4** Develop formalized partnerships with the regional continuum of care and state efforts to help to meet the needs of displaced families.

### **Goal 3: Provide, Development and Implement Supportive Services**

Continually assess, develop and provide services that meet the diverse needs of at-risk and displaced families to support them in obtaining and maintaining stable housing.

**3.1.2** Coordinate efforts with county and state programs to facilitate efficient and timely access to publicly supported benefit programs.

**Objective 3.3:** Develop and provide client driven support services to help families be successful with their housing and employment goals, including increased access to intensive primary health, substance abuse, and mental health services.

**3.3.2** Increase access to appropriate and responsive health, substance abuse and mental health services for children and families.

### **Goal 4: Promote Responsive System Infrastructure and Sustainability**

Develop and implement infrastructure, systems and processes that support effective service delivery and the achievement of desired outcomes.

**Objective 4.1:** Develop tools and procedures to comprehensively assess the needs of at-risk and displaced families to identify the most responsive set of services.

### **CENTRALIZED AND/OR COORDINATED ASSESSMENT SYSTEM**

Once the CoC has developed a centralized assessment system or a coordinated assessment system, MHBHC must use that assessment system. The City and MHBHC must work with the CoC to ensure the screening, assessment and referral of program participants are consistent with the written standards required by §576.400(d).

### **HOMELESS PARTICIPATION**

Per §576.405 (c), to the maximum extent practicable, MHBHC must involve homeless individuals and families in providing services assisted under ESG. This involvement may include employment or volunteer services. The City highly encourages that MHBHC recruit one or more homeless, or formerly homeless individuals to the Governing Board and/or Subcommittees.

### **MONITORING**

The City will monitor MHBHC which will include, but not limited to, assurance of compliance with new ESG definitions, utilization of the centralized and coordinated assessment system, fiscal integrity and accounting of utilization of funds as required by HUD, and entry of data into HMIS. To meet the requirements outlined for the use of ESG funds, quarterly meetings will be held with MHBHC to assess whether or not the



milestones identified in the contract (e.g., number of clients to be served) and the ESG guidelines and regulations are met.

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## **Attachment E – CDBG Regulations**

### Statutes

18 U.S.C. §894

Title VI of the Civil Rights Act of 1964 Title VIII of the Civil Rights Act of 1968

Housing and Community Development Act of 1974, 42 U.S.C. §§5301 to 5321

Sections 104(b) and 109 of the Housing and Community Development Act of 1974, 42 U.S.C. §5304(b) and §5309

Copeland "Anti-Kickback" Act of 1934, 40 U.S.C. §§276, 327-333

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §793, as amended The Energy Policy and Conservation Act (Public Law 94-163)

Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. §1701u

The Davis-Bacon Act, 40 U.S.C. §§3141 to 3148

Lead-based Paint Poisoning Prevention Act of 1971, 42 U.S.C. §4831

The Contract Work Hours and Safety Standards Act, 40 U.S.C. §327, et seq., as amended

The Americans with Disabilities Act, 42 U.S.C. §12101, et seq., as amended

Fair Housing Act, Public Law 90-284, 42 U.S.C. §3601 to §3620, as amended

National Environmental Policy Act of 1969, 42 U.S.C. §4321 et seq., as amended

National Historic Preservation Act of 1966, 16 U.S.C. §470 et seq., as amended

The Archaeological and Historical Data Preservation Act of 1974, amending the Reservoir Salvage Act of 1960, 16 U.S.C. §469 et seq., as amended

Safe Drinking Water Act of 1974, 42 U.S.C. §201, §300 et seq., §7401 et seq., as amended

Endangered Species Act of 1973, 16 U.S.C. §1531, et seq., as amended

Wild and Scenic Rivers Act of 1968, 16 U.S.C. §1271 et seq., as amended

Clean Air Act of 1970, 42 U.S.C. §1857 et seq., as amended

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Titles II and III, 42 U.S.C. §4601 et seq.

Drug Free Workplace Act of 1988, 20 U.S.C. §6301, et seq., as amended

Fire Administration Authorization Act of 1992, Pub. L. 102-522

Regulations

2 CFR 200

2 C.F.R. Part 170, Reporting Subaward and Executive Compensation Information

24 C.F.R. Part 35, Lead-Based Paint

24 CFR Part 42, Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs

24 C.F.R. Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

24 C.F.R. Parts 84 and 85, Administrative Requirements for Grants

24 C.F.R. Part 135, Economic Opportunities for Low- and Very Low-Income Persons

24 C.F.R. Part 570, Community Development Block Grants

29 C.F.R. Parts 1,3,5,6, and 7, Labor standards

29 C.F.R. § 1910.1001 (non-construction), §1926.1101 (construction), Asbestos

40 C.F.R. Part 61, Subpart M, Asbestos removal

40 C.F.R. Part 763, Asbestos

40 C.F.R. Parts 1500-1508, Council on Environmental Quality

49 C.F.R. Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

Executive Orders

Exec. Order No. 11063, (1962) as amended by Executive Order 12259, Equal Opportunity Housing

Exec. Order No. 11246, Non-discrimination in Employment

Exec. Order No. 11375 as amended, Equal Employment Opportunity

Exec. Order No. 11593, Protection and Enhancement of the Cultural Environment

Exec. Order No. 11988, Floodplain Management

Exec. Order No. 11990, Protection of Wetlands

Exec. Order No. 12086, Contract Compliance with Equal Employment Opportunity

Exec. Order No. 12372, Intergovernmental Review of Federal programs