

**MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES
(Hereafter DMHAS)**

AND

**RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY-UNIVERSITY
BEHAVIORAL HEALTHCARE
(Hereafter RUTGERS or UBHC)**

**FOR DEVELOPMENT AND OVERSIGHT OF NETWORK OF
OUTPATIENT MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
FOR ELIGIBLE CONSUMERS OF SANDY
RELIEF FUNDS**

THIS AGREEMENT is entered into effective as of the latest date of signature of the parties , (the "Effective Date") by and between RUTGERS, THE STATE UNIVERSITY, a body corporate and politic and instrumentality of the State of New Jersey, a public entity, on behalf of its RUTGERS BIOMEDICAL AND HEALTH SCIENCES ("RBHS")-UNIVERSITY BEHAVIORAL HEALTH CARE (hereinafter "UBHC") with offices at 671 Hoes Lane, Piscataway, New Jersey 08855 and the Department of Human Services/Division of Mental Health and Addiction Services (hereinafter "DHS/DMHAS" or "DMHAS") with offices at 222 South Warren Street, Trenton, New Jersey 08625.

WITNESSETH:

WHEREAS, Superstorm Sandy created unprecedented devastation in the State of New Jersey and left in its wake untold human suffering requiring the urgent need for increased and targeted mental health and substance use services for victims of the Superstorm and its aftermath;

WHEREAS, the federal government recognizing the need to create and deliver innovative, quality outpatient services to those people most in need has provided dedicated funding in the form of a Social Services Block Grant fund ("SSBG", pursuant to the Disaster Relief Appropriations Act, 2013 (P.L. 113-2));

WHEREAS, the State of New Jersey and the Department of Human Services are desirous of expending the funds in the SSBG in a way that maximizes clinical value to serve the identified population of individuals in the nine affected counties in New Jersey ("Sandy Counties");

WHEREAS, the Division of Mental Health and Addiction Services (“DMHAS”) is the State Agency responsible for the coordination of all statewide mental health and addiction services and desires to procure professional services from UBHC to develop and manage a network of licensed clinicians to provide mental health and substance use clinical services for individuals from Sandy Counties who meet eligibility criteria;

WHEREAS, DHS/DMHAS and UBHC recognize the importance of the creation, development and management of network of licensed mental health and substance use professionals who can serve eligible individuals in need of clinical services:

WHEREAS, UBHC has the professional staff and leadership that is able to create, develop and administer a network of quality, specialized licensed clinical staff in a timely and cost effective manner to meet the need identified by both the federal government and the State of New Jersey;

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

(1.0) Definitions

Access Center of UBHC – is a call center and is the initial point of entry for consumers seeking outpatient mental health and substance use services. UBHC performs screening and triage functions as described in this Agreement through its Access Center as part of its first phase of deployment of mental health and substance use services. The Access Center shall operate immediately upon the execution of this Agreement to determine appropriate service and coordination of care for services both paid by UBHC and DMHAS or paid under the terms of the SSBG.

Eligible Individual – is an individual who meets criteria for clinical services as determined by UBHC Access Center and is from one of the Sandy Counties. An eligible individual is one who also meets criteria of the SSBG, is a US citizen or permanent legal resident and was a resident in one of the nine impacted counties of Super Storm Sandy on October 29, 2012. Additionally, the individual does not qualify for any other type of reimbursement for the services to be provided under the terms of the SSBG (e.g., the individual has no commercial insurance, or has exhausted those benefits, is not receiving any other type of benefit that would reimburse the mental health or substance use outpatient services for which there is a determined clinical need)

Monitoring Reports – As the funds for this program are monitored by the Office of the Inspector General (OIG) of the Department of Health and Human Services and the accompanying federal regulations, monitoring reports under this Agreement are established under two levels.

First tier of monitoring - UBHC shall be responsible for monitoring on an individual basis each one of its network providers.

Second tier of monitoring - UBHC shall report in a form prescribed by this Agreement on a monthly basis to the Sandy Recovery SSBG Coordinator at DHS. All reports shall be in a form

that conforms to the requirements of the block grant as described in Exhibit D and demonstrates that the funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant. All fiscal controls and accounting procedures must demonstrate comprehensive oversight by UBHC.

Third tier of monitoring- UBHC shall report on a form (to be developed) on a monthly basis to the DMHAS Report Coordinator that provides basic information on each client enrolled in services for compliance with reporting needed to establish a central registry.

Reimbursable Service – Under the terms of the SSBG grant, the funds are to be utilized as a payment of last resort. Under no circumstances can the funds be utilized to supplement, duplicate, to supplant, or subsize other mental health and substance use entitlements or benefits for individuals.

Sandy Counties – are defined as one of the following nine counties where the impact of Superstorm Sandy was most severe and for whom the services of this Agreement are exclusively targeted. The counties are Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Union and Ocean

Sandy Network Providers – are licensed clinicians that are either part of the existing provider network established by UBHC and/or may be recruited by UBHC as part of the panel of mental health and substance use professionals necessary to meet the appropriate clinical and treatment needs of the eligible individuals in Sandy Counties.

Sandy Recovery SSBG Coordinator – Department of Human Services employee to whom UBHC Program Director reports under this Agreement for purposes of monitoring utilization and grant expenditures. The UBHC Program Director shall report to the Sandy Recovery SSBC Coordinator as described in paragraph 3 of this Agreement.

SSBG – Social Services Block Grant pursuant to the Disaster Relief Appropriations Act, 2013, [P.L. 113- 2];

Telehealth Providers- The network clinical staff recruited by UBHC may also be part of a telehealth network of licensed clinicians. Telepsychiatry is excluded from the type of clinical practices that may be a part of the telehealth network under the terms of this Agreement. Telepsychiatry may be considered after year one of this Agreement.

(2.0) PROVISION OF SERVICES

(2.1) Recognizing that it is essential to provide services to individuals as soon as possible, but no later than November 1, 2013, UBHC shall be responsible for the creation of an administrative infrastructure to manage, recruit, credential and deploy sufficient licensed clinical staff to meet the service terms of this Agreement. It is therefore determined that the services provided by UBHC shall be deployed in two phases as described in the paragraphs below with the timeframes as prescribed in this Agreement. The reporting and monitoring requirements necessary to audit the expenditure of SSBG funds as described in Section 3.0 of this Agreement are effective upon

execution of this Agreement and must meet all federal monitoring requirements under the SSBG. UBHC is required to meet all reporting requirements in Phase I and Phase II of this Agreement.

(2.2) PHASE I

Initial Deployment Utilizing Access Center and Existing UBHC Licensed Clinical Panel Providers

UBHC shall leverage its existing resources to fulfill the terms of this Agreement upon the execution of this Agreement under the terms in this Section (2.2). Phase I commences upon execution of this Agreement. UBHC shall hire staff as required under PHASE II of this Agreement. Timeframes and obligations for Phase II commence as described in paragraph 2.3.

UBHC shall utilize its existing Access Center as the initial point of contact for consumers. The Access Center would be staffed with existing employees of UBHC. UBHC shall immediately be responsible for:

- Managing the calls for the SSBG services using existing UBHC employees until the new staff is hired.
- Training and educating existing staff in the programming currently available for consumers under the SSBG and programs available for those who do not meet clinical, need or geographic criteria for the SSBG services, but nonetheless require services. Documentation of training sessions for the SSBG services to meet the terms of this Agreement shall be provided to DHS under the terms and timeframes described in paragraph three (3) of this Agreement.
- UBHC shall create a new dedicated line at the Access Center to service the SSBG consumers upon the execution of this Agreement. Until that number is established referrals can call the general Access number (800-969-5300).
- UBHC Access Center staff shall possess the requisite training and skill to utilize the integrated patient management software (IPMS). Access Center staff shall triage and screen consumers through the Access Center.
- All callers shall be provided with an initial screening to determine the urgency of this clinical need and IPMS shall be utilized to match the conversation with the caller and to collect and enter all data required under this Agreement, such as, county of residence, US citizenship, insurance, Medicaid, etc.
- The Access Center staff shall also be trained in and responsible for utilizing the triage decision tree. (Attached as Exhibit A).
- If the caller presents an imminent risk, emergency responders are contacted and respond unless it is appropriate to transfer the call to the screening service.
- Callers assessed as not needing immediate acute service treatment are given intake appointments within UBHC for service.
- For SSBG eligible consumers, UBHC shall obtain first appointments for all network licensed clinical staff, including network providers and private practitioners who have the capacity to coordinate with UBHC. For audit purposes, all of the existing licensed clinical staff shall be given new purchase orders for SSBG services.

- Network development will begin by utilizing existing UBHC outpatient provider panel information, with separate credentialing and purchase orders to be established for this specific Agreement.

PHASE II

Phase II of this Agreement shall begin within two months from the date of the execution of this Agreement. The obligations within this paragraph of the Agreement must be met within the timeframes of two months from execution of this Agreement.

(2.3) UBHC shall create an office which is responsible for the recruitment, creation, credentialing, supervision, monitoring and payment of claims for a panel of licensed mental health and substance use clinicians to serve eligible individuals in the Sandy Counties as defined in this Agreement. UBHC shall create an office as described in its proposal (Attached as Exhibit B) to supervise program staff and oversee compliance with all requirements for this Agreement including audit requirements to satisfy federal grant reporting obligations. The office shall consist of the following staff with responsibilities as described in this Agreement. The total number of staff to be hired is five (5).

(2.4) The network to be created and utilized will consist entirely of licensed providers. It shall be the responsibility of UBHC to ensure that the providers are:

- (a) Credentialed according to the standards of Department of Consumer Affairs licensing standards and licensed by the appropriate professional boards
- (b) Execute a Business Associate Agreement that meet the requirements of Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) and the regulations adopted by the Secretary of the United States Department of Health and Human Services and is in compliance with the requirements of N.J.S.A. 30:4-24.3 confidentiality and privacy provisions;
- (c) Execute a Qualified Service Organization Agreement (QSOA) consistent with 42 CFR Part 2 if the provider is a substance use provider, if applicable; Execute the necessary professional services agreement with UBHC as appropriate to become part of the network; and
- (d) Ensure that the provider agency or individual is not excluded from participation in state and federal programs, including Medicaid and Medicare.

The staff to be hired is as follows and will have the following titles and program responsibilities:

- (2.5) **Program Director** – shall be responsible for utilization management, audit, and overall supervision of staff and compliance with all contract requirements. The responsibilities of the Director further include the following:
- Negotiation and development of professional service agreements and purchase orders with provider networks

- Supervision of all record keeping and eligibility determinations
- Supervise contract funds, including the management and encumbrance of funds and direct payment
- Conduct and monitor the authorization process and utilization review of all eligible consumer under the SSBG
- Provide all reports due under this Agreement.
- Market to recruit licensed clinicians for network panel.

(2.6) **Clinician** – The duties of the clinician are as follows:

- Answer calls for requests for service
- Provide and record eligibility criteria
- Assess needs of those individuals who are not eligible
- Link eligible individuals to care and provide care coordination
- Authorize services
- Conduct utilization reviews.

(2.7) **Claims Staff** - The duties of the claims staff are:

- Analyze claims, maintain database, enter claims, run daily reports to monitor data entry
- Review claims from providers and verify services were authorized
- Analyst will generate the payment request for providers and reconcile unpaid claims against the database to ensure payments are processed in accordance with contract terms
- Prepare monthly reports to analyze the status of claims processing procedures, encumbrances and expenditures
- Administrative analyst will maintain files for all providers containing the copies of claims processed and paid

(2.8) **Support Staff** –

- Administrative assistant will handle incoming correspondence and screen calls, demonstrating knowledge of UBHC units, outside providers and other pertinent organizations and resources
- Staff will create and track all purchase orders with network providers
- Staff will maintain Department accounts, monitor expenditures and ensure compliance with the budget
- Staff will execute data collection, information gathering, analysis data entry/retrieval, database maintenance
- Generate administrative reports
- Maintain a schedule of treatment appointment for the telehealth provider, accurately scheduling, tracking and confirming appointments

(2.9) The services described in this section of the Agreement shall commence at the signing of this Agreement, but no later than November 1, 2013.

3.0 FISCAL MANAGEMENT, REPORTING OBLIGATIONS AND PROGRAM INTEGRITY

(3.1) The total award of funds to UBHC for provision of services under this Agreement is \$5 million (five million). The funds shall be obligated over the course of two years and shall be expended from the date of execution of this Agreement to September 30, 2015 the ending of the federal authorization period. The first year of the contract the disbursement of the funds shall be up to \$2.5 million dollars (two million five hundred thousand dollars) and the second year of the contract the funding shall be \$2.5 million (two million five hundred thousand dollars) and any carry over from the first year not to exceed \$5 million.

(3.2) DMHAS and UBHC will execute a B-4 (cost based) contract for these services. The contract will be in effect upon execution until September 30, 2015, in no event more than 24 months. Payment will be made on a reimbursement basis after receipt of the Report of Expenditure (ROE) and service utilization report for the applicable time period. Monthly ROE's and utilization reports will be required for the first six months of the contract, after which consideration will be given to reducing the reporting frequency to quarterly. DMHAS will make the final decision regarding frequency of reporting. UBHC will provide expenditure and service utilization reports using formats approved by DMHAS (see section 3.3). Reports will be due to DMHAS no later than the 15th calendar day after the close of the reporting period. A final ROE and utilization report will be due to DMHAS no later than October 31, 2015.

(3.3) Based upon professional service contracts established between UBHC and its network clinicians, UBHC shall be responsible for:

- Issuing a purchase order to encumber funds for individual client
- Ensuring that there is no cross-subsidization, no duplication or supplementation of funding of the SSBG services under this Agreement, ie, that the SSBG is the payor of last resort for eligible individuals and that no other funding services are utilized and no other mental health or substance use service programs could have been utilized in lieu of these SSBG services
- Collecting itemized claims forms from each provider (with client signatures next to each billed date)
- Make payment to providers
- Establish and maintain business rules for encumbrance, claims submission, claims payment, and cancellation of encumbrances on no less than a monthly basis to promote efficient utilization of resources
- Communicate with network providers on a weekly basis to ensure proper utilization of funds and claim processing and provide monitoring reports as required in this Agreement
- Maintain sufficient internal accounting and monitoring controls to satisfy 45 CFR 96.30 and to provide statistical reports to the DHS Sandy Recovery SSBG Coordinator on a monthly basis
- Conduct ongoing chart reviews of a randomized sample of service recipients to ensure compliance with service eligibility and service delivery

- The Reports provided to the DHS Sandy Recovery SSBG Coordinator shall be in the form appended as Exhibit C to this Agreement and shall at a minimum include the following information on a monthly basis:
 - (a) Executive summary of all events in the administration of the grant funds through UBHC
 - (b) A List and discussion of service and utilization issues for the month
 - (c) Significant events
 - (d) A list of providers and specific activity of each provider
 - (e) Grand total of all program contacts through the UBHC network including number of contacts through the Access Center, number of face to face contacts with provider agencies and number of claims and expenditures – telehealth contacts
 - (f) The Funding for service claims shall be segregated from the funding allocated to administrative services.
 - (g) Summary and detail by provider of net value of encumbered, claimed, and outstanding authorization authority.

(4.0) TERM AND TERMINATION

- (4.1) The services and the staffing required in Section 2 under this Agreement shall commence on upon the execution of this Agreement and terminate on September 30, 2015, a term of two years.
- (4.2) This Agreement can be terminated by mutual agreement in writing by both parties or upon sixty (60) days written notice by either party.
- (4.3) Either party may terminate this Agreement for cause as of the date specified in a written notice upon the occurrence of any of the following events:
 - (4.3.1.) That either party's obligations under this Agreement are prohibited under the laws, regulations or other rulings of the United States, the State of New Jersey or government department or agency thereof, or any Court of competent jurisdiction;
 - (4.3.2) That either party has made a determination, upon advice of legal counsel, that it is prohibited from or will be penalized for proceeding with its obligation under this Agreement as a result of any likely proceedings of any governmental agency; or
 - (4.3.3) That either party has had any required or applicable license, accreditation, or certification limited, revoked, restricted or suspended;
- (4.4) In the event either party defaults in any term or condition of this Agreement, the non-defaulting party shall provide written notice of the default to the defaulting party. The party in default shall have thirty (30) days to cure the default. If the

default is not cured to the satisfaction of the non-defaulting party, this Agreement may be terminated as of the date the cure period ends.

- (4.4) If this Agreement is terminated prior to the completion date referenced in this Paragraph, UBHC shall be entitled to payment for all work completed and in process as of the termination date.

(5.0) Miscellaneous

- (5.1) The parties agree that they are not relying upon any promises, understanding, warranties, circumstances, conduct, negotiations, expectations, representations, or agreements, oral or written, express or implied, other than those expressly set forth herein; that this Agreement is a complete integration and constitutes the entire Agreement of the parties with respect to the subject matter hereof; that no amendments or other modifications of this Agreement shall be valid unless in writing and signed by an authorized officer of each party hereto; that this entire Agreement has been bargained for and negotiated; and the parties have read, understood and approved this Agreement in its entirety.
- (5.2) This Agreement may be amended only by a written agreement executed by both parties.
- (5.3) All notices, copies of notices or other communications required or permitted hereunder shall be written and personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by telecopy accompanied by simultaneous mailing by first-class mail, addressed to the parties at their registered addresses as follows:

To DMHAS:

Lynn Kovich
Assistant Commissioner
Division of Mental Health and Addiction Services
PO Box 700
222 South Warren Street, Third Floor
Trenton, New Jersey 08625

To UBHC:

Christopher Kosseff
President/CEO
University Behavioral HealthCare - Rutgers
671 Hoes Lane
Piscataway, New Jersey 08855

All notices shall be effective as of the date of delivery of personal notice or three (3) days after deposit of such notice in the United States mail, whichever is applicable.

- (5.4) This Agreement shall be deemed to have been executed in the State of New Jersey, and shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties agree that any and all claims arising under this Agreement, or related thereto, shall be heard and determined in the courts of the State of New Jersey.
- (5.5) In the event that a dispute between the parties as to the rights and obligations under the agreement, the party alleging the dispute shall provide written notice to the other. Upon receipt of the notice, the parties shall meet and confer for a period of 30 days in a good faith effort to resolve the matter. The 30 day period may be extended upon the agreement of the parties. The exercise of this dispute resolution process shall not relieve either party of its obligations to file notice or actions in accordance with the law, but if the dispute resolution process shall continue after the filing of any claims or actions until the 30 day period, and any extensions of that period has expired.
- (5.6) If any provision of this Agreement is held by a court of competent jurisdiction, or determined under applicable federal or state law to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect.
- (5.7) Except as otherwise provided in this Agreement, the parties hereto may not assign their rights, duties or obligations under this Agreement, either in whole or in part, without receiving the prior written consent of the other party. Any assignment made without consent of the other party shall be void and the non-assigning party shall not recognize any such assignment.
- (5.8) (a): DHS/DMHAS and RUTGERS-UBHC each agree that in the event that "personal health information" ("PHI") is to be "used" or "disclosed," as these terms are defined in the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HiTech Act"), directly or indirectly except if the use is for treatment or operations as defined in those Acts, either the patient shall have consented to the use or disclosure, or the parties shall execute DHS/DMHAS' standard Business Associate Agreement ("BAA"). In such cases, a copy of the BAA shall be executed and attached hereto and it shall be made a part of this Agreement, as though fully set forth herein. If such information relates to substance abuse diagnosis or treatment, both parties will comply with 42 CFR Part 2 before disclosing that information.

- (b): RUTGERS/UBHC agrees that all proprietary and/or confidential information (other than PHI, which is discussed in Section 5.7(a)) communicated by DHS/DMHAS to the RUTGERS/UBHC, directly or indirectly, will be received by the RUTGERS/UBHC in confidence. RUTGERS/UBHC agrees to keep all such information confidential and to protect such information in accordance with federal and state law. This duty of confidentiality shall survive termination of this Agreement in accordance with law.
- (5.9) DHS/DMHAS agrees to abide by RUTGERS's policy regarding Section 6032 of the Federal Deficit Reduction Act of 2005.
- (5.10) None of the provisions of this Agreement is intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purposes of effecting the provisions of this Agreement. Neither of the parties hereto, nor any of their respective officers, directors or employees, shall be construed to be the agent, employee or the representative of the other.
- (5.11) DHS/DMHAS, subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act and availability of appropriated funds, shall be responsible for, and shall at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act of omission of the DHS/DMHAS, its employees, agents or contractors, in the performance of the obligations assumed by the DHS/DMHAS pursuant to this MOA. The DHS/DMHAS hereby releases RUTGERS/UBHC from any and all liabilities, claims, losses, costs, expenses and demands of any kind or nature whatsoever, arising under State or Federal law, solely out of or in connection with the DHS/DMHAS' performance of the obligations assumed by the DHS/DMHAS pursuant to the MOA.
- (5.12) RUTGERS/UBHC, subject to the provisions of the New Jersey Tort Claims Act shall be responsible for, and shall at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act or omission of RUTGERS/UBHC, its employees, agents or contractors, in the performance of the obligations assumed by RUTGERS/UBHC pursuant to this MOA. RUTGERS/UBHC hereby releases the DHS/DMHAS from any and all liabilities, claims, losses, costs, expenses and demands of any kind of nature whatsoever, arising under State or Federal law, solely out of or in connection with RUTGERS/UBHC's performance of the obligations assumed by RUTGERS/UBHC pursuant to this MOA.
- (5.13) Rutgers, The State University of New Jersey is an instrumentality of the State of New Jersey. As such, this Agreement incorporates the following Statement of Public Liability Insurance: Any agreement or arrangement signed and entered into on behalf of the State of New Jersey by a State official or employee shall be subject to the provisions of the New Jersey Tort Claims Act, N.J S.A. 59:1-1 et

seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and the availability of appropriations. The State of New Jersey does not carry public liability insurance, but the liability of the State and the obligations of the State to be responsible for tort claims against its employees are covered under the terms and conditions of the New Jersey Tort Claims Act. The Act also creates a special self-insurance fund and provides for payment of claims against the State of New Jersey or against its employees whom the State is obligated to indemnify against tort claims which arise out of the performance of their duties. University shall provide for professional and general liability coverage insuring the University and its faculty, students and employees performing activities under this Agreement through this Program of Self-Insurance providing limits of coverage of \$1,000,000/\$3,000,000 on an occurrence type basis.

- (5.14) UBHC warrants that it has at the time of execution of this Agreement adequate and appropriate professional and/or general liability insurance as well as self-insurance for its employees and agents.
- (5.15) Any and all publicity and/or public announcements relating to this Agreement or the work products of this Agreement shall be reviewed and approved in writing by both DHS/DMHAS and RUTGERS/UBHC prior to release or distribution. Both parties must be in agreement prior to any release or distribution unless required as part of a legal proceeding.
- (5.16) Neither party to this Agreement will discriminate under federal or New Jersey state law based on race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer,
- (5.17) Both parties represent that no fee, commission, compensation, gifts or gratuity was paid or received regarding the solicitation of this Agreement, in contravention to N.J.S.A. 52:13D-12 et seq.
- (5.18) The parties to this Agreement do hereby agree that the provisions of N.J.S.A. 10:2-1 through 10:5-1 dealing with discrimination in employment in public Agreements, and the rules and regulations promulgated pursuant thereunto, as the same may be amended or modified, are hereby made apart of this Agreement and are binding upon them.
- (5.19) Compliance Statement - Each party certifies that it shall not violate the federal anti-kickback statute, set forth at 42 U.S.C. §1320a-7b (b) ("Anti-Kickback Statute"), or the federal prohibition against physician self-referrals, set forth at 42

U.S.C. § 1395nn (“Stark Law”), with respect to the performance of its obligations under this letter.

DHS/DMHAS acknowledges that it has reviewed RBHS’s Code of Conduct and RBHS’s Stark Law and Anti-Kickback Statute Policies and Procedures. RBHS’s Code of Conduct is available at:
<http://rbhs.rutgers.edu/complweb/code/conduct.pdf>. RBHS’s Stark Law and Anti-Kickback Statute Policies and Procedures are available at the following web addresses:

<http://policies.rutgers.edu/10021-currentpdf>

<http://policies.rutgers.edu/10024-currentpdf> and,

<http://policies.rutgers.edu/10023-currentpdf>

Each party shall ensure that its individuals providing service under this letter who meet the definition of “Covered Person,” as such term is defined in the “Corporate Integrity Memorandum of Understanding between the Office of Inspector General of the Department of Health and Human Services (“OIG”) and the University of Medicine and Dentistry of New Jersey” dated September 25, 2009, as amended by a letter agreement dated May 1, 2013 between the OIG and Rutgers, available at: https://ethics.umdnj.edu/mtrxprod/documents/CIA_agree_RU_UMDNJ.pdf shall comply with RBHS’s Compliance Program, including the training related to the Anti-Kickback Statute and the Stark Law.

- (5.21) UBHC warrants that it is now and will remain, at all times under the terms of this Agreement, capable of providing and recruiting the services and performing the duties contemplated herein and that neither it nor any of the entities or clinical staff providing services under this Agreement, is a “Sanctioned Person or Entity” as that term is defined under applicable federal and state law. In case of breach of this provision DHS/DMHAS shall have available to it all relief and remedies under law.

Agreed and accepted by:



Lynn A. Kovich
Assistant Commissioner
DHS/DMHAS

10/31/13
Date

Casandra Burrows
Acting Assistant Director
Rutgers, The State University of New Jersey

10/14/13

Date

Christopher Kossuff
President and CEO
Rutgers – University Behavioral Health Care

10.10.13

Date

Where did you live at the time of Hurricane Sandy?

Lived in one of the impacted countries at the time of Hurricane Sandy.

Did not live in one of the impacted countries at the time of Hurricane Sandy.

Refer Elsewhere

Are you a Citizen/Legal Resident?

Yes

Not Citizen or Legal Resident

Refer Elsewhere

Are you covered by any type of insurance?

Uninsured

Medicaid/Medicare

Commercial Insurance

Have you exhausted your benefits yet?

Yes

No: Still have benefits remaining

Refer to Health Plan/
Participating Providers

Caller is eligible for the SSBG Program – OK to accept referral.

Eligible Caller for the SSBG Program

Complete Telephonic Assessment

What services are needed?

**Mental Health or Co-Occurring
(Primary MH)**

Primary Substance Abuse

Decide Level of Care required?

Decide Level of Care required?

EISS

Other

Outpatient

Outpatient

Detox

Residential

Triage to
Local
SSBG EISS

Refer
Consumer
Elsewhere

- a) Does caller have transportation?
- b) There is a local provider is available?
- c) Are there timely appointments?

Refer to
appropriate
DMHAS
Service

If answered "YES"
to all 3 Questions
Refer to Network
Clinician

If answered "NO" to
any of the 3 Questions
Schedule for a
Tele-Health
Appointment

**Sandy Clinical Services
Rutgers University Behavioral Health Care
DMHAS 10/8/2013**

	Admin Grant Salary	Clinical Grant Salary	Total Annualized		Yr. 2 Clinical Grant Salary	Total Annualized		Hours	FTE	Year One Annual Salary
			Yr. 1 Budget	Yr. 2 Budget		Yr. 2 Budget	Two Year Budget			
A. Personnel Services										
UR/Audit/Network Manager	55,000		55,000	61,200		116,200	18.75	0.50	120,000.00	
Clinician (answering calls and authorizations)	52,354		52,354	58,255		110,609	40.00	1.00	57,113.00	
Claims Staff	36,667		36,667	44,880		81,547	35.00	1.00	44,000.00	
Claims Staff	14,667		14,667	17,952		32,619	14.00	0.40	44,000.00	
IT Staff	7,000		7,000	7,140		14,140	3.75	0.10	70,000.00	
Office Manager	23,375		23,375	26,010		49,385	35.00	0.50	51,000.00	
Support Staff	33,333		33,333	40,800		74,133	35.00	1.00	40,000.00	
Licensed Clinician II (telehealth)	-	60,968	60,968	62,187	62,187	123,155	37.50	1.00	60,968.00	
Total Salaries	222,395	60,968	283,363	318,425	62,187	601,788	219.00	5.50		
Fringe Benefits	-	-	-	-	-	-	-	-	-	
Total Personnel	222,395	283,363	283,363	318,425	601,788	601,788				

B. Consultant/Professional Services

	1,939,032	1,937,813	3,876,845
C. Program Operating Expenses			
Marketing	16,000.00		28,000
Office Supplies	6,000.00		12,000
Postage	2,000.00		4,000
Rent (432sf @ \$21/sf)	9,072.00		18,144
6 Phones line (\$432/yr)	2,592.00		5,184
Toll free number (half the cost)	750.00		1,500
Advertising jobs	2,000.00		2,000
Travel	4,948.00		9,875
Total Operating	43,362	37,341	80,703

Total Budget (Salary Plus Nonsalary)

	2,265,757	2,293,578	4,559,335
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Additional G&A at 9%

	203,918	206,422	410,340
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One Time Start Up

	30,325	30,325	30,325
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Total UBHC BUDGET

	2,500,000	2,500,000	5,000,000
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Sandy Start Up Budget

office supplies	2000
phone line installation	2000
3 phones and installation	1500
3 ACD phone sets	825
6 computers	6000
laptop	1800
1 network printer	2000
3 cubicles (\$2,000 each)	6000
6 desks (\$500 each)	3000
6 chairs (\$300 each)	1800
6 cabinets (\$500 each)	3000
teleheath camera and microphone	<u>400</u>
Total One Time Purchases	\$30,325.00

3. The Funding Agency (**DHS/DMHAS**) **requires** technical assistance meetings with the Service Provider Agency (**Rutgers**) on the following basis:
 Initial Monthly Quarterly Final Other (Describe)
4. Other Financial, Reporting or Monitoring Requirements
Particular forms **are not** required to be utilized. If applicable, these are attached. (Please attach.)
Any changes to the individuals acting as Project Director must be provided to the Funding Agency.

III. Modifications to the Agreement

This document represents the entire Agreement between the parties and shall not be amended except by the express written consent of both parties, except as stated herein:

1. MOA extensions **may** be made to this agreement. If allowed, approval may be granted by the Program Management Officer and Fiscal Officer identified in Section VI.
2. Budget revisions **may** be made to this agreement. Any modification to the budget must have prior written approval of **DHS/DMHAS**. If allowed, approval may be granted by the Program Management Officer and Fiscal Officer identified in Section VI.
3. Modifications to Subsection III of the MOA, regarding service deliverables to be performed under Section III. (A.) may be made with the approval of the Program Management Officer identified in Section VI.

IV. Special Conditions (as applicable)

Under the terms of the SSBG grant, the funds are to be utilized as a payment of last resort.

V. Multi-Year Agreements

This MOA is a multi-year MOA.

EXHIBIT B

Sandy Relief Funds MOA Proposal

Rutgers-University Behavioral Health Care

Context

The devastation to New Jersey caused by Hurricane Sandy took its toll in human suffering as much as it did to buildings and the infrastructure. While the human impact is not as visible, it is even more enduring.

The funds being made available for outpatient mental health services and addictions treatment will go a long way to providing appropriate care for those who were in the path of the hurricane. This proposal details the structure and services to be offered.

The goal is to get appropriate treatment to those who are eligible and require the services.

Budget

See attachment.

Category B (Consultants/Professionals) consists entirely of licensed clinicians who will be providing outpatient services to consumers.

The marketing costs associated with the recruitment of the panel of clinicians (for example, advertising) are included in the annualized budgets. The office supply funds in the start-up budget will cover the initial cost for marketing materials. The office supply and postage lines in the annualized budget will cover the cost of printing and sending recruitment mailings to licensed providers in addition to covering the program costs for other office supplies and postage. The budget line for travel will cover the in-person outreach to network providers. Recruitment costs will be reduced because UBHC already has extensive lists of providers from our current University Correctional Health Care panel and our former managed care panel.

Staff Duties:

UR/Audit/Network Manager: The Director will supervise program staff and oversee compliance with all contract requirements. Duties include the development and management of the network of licensed providers, including the oversight of the credentialing of these providers. The Director will negotiate and develop purchase orders with network providers. This administrator will supervise the consumer eligibility determination process and will monitor all record keeping. The Director will conduct and monitor the service authorization process and the utilization review/case management of all eligible consumers. This administrator will conduct audits of network provider service provision. Duties also include the oversight of the management of contract funds, including encumbrance and direct service payment. The Director will also be responsible for producing all reports required by this contract.

Clinician: The Clinician will answer calls requesting service. This includes providing and recording the eligibility determination process. If the consumer meets eligibility requirements, the clinician will assess whether the consumer needs mental health or addictions treatment and will link the individual to the appropriate level of care. The clinician will schedule intake appointments. If callers do not meet eligibility requirements this staff will refer them to other appropriate services not funded through contract funds. The clinician will provide care coordination/care management for eligible consumers across Sandy services, both those paid by UBHC and services provided under other DMHAS contracts. This staff will authorize services and conduct utilization reviews.

Claims staff: The Administrative Analyst will maintain the claims database, entering claims and running daily reports to monitor data entry. This staff will review claims received from providers and verify that services were authorized by utilization management staff. The administrative analyst will generate the payment request for providers and reconcile unpaid claims against the database to ensure payments are processed in accordance with contract terms. This staff will prepare monthly reports to analyze the status of claims processing procedure. The administrative analyst will maintain files for all providers containing copies of claims processed and paid.

Support Staff: The Administrative Assistant will appropriately handle incoming correspondence and screen calls, demonstrating knowledge of UBHC units, outside providers, and other pertinent organizations and resources, in order to facilitate telephone activities and provide information to callers. This staff will create and track all purchase orders with network providers. The Administrative Assistant will maintain department accounts, monitoring expenditures and ensuring compliance with the budget. This staff will execute data collection, information gathering, analysis, data entry/retrieval, data base maintenance, and will generate administrative reports utilizing a variety of software packages. The Administrative Assistant will complete and process all paperwork and maintain an accurate filing system to meet needs of the department. This staff will maintain a schedule of treatment appointments for the telehealth providers, accurately scheduling, tracking, confirming and cancelling appointments as needed.

NARRATIVE:

General

- 1. Please provide a timeline for implementation, detailing key operational milestones (ie, when will staff be on board, when UBHC is be ready to authorize services and process/pay claims). Ideally, the Division would like to see services commence on or about 10/1/13, but no later than 11/1/13.**

UBHC could start this contract on 11/1/13 if the contract award is issued by the end of August.

- UBHC can establish a dedicated toll free line within two months of receipt of the contract award. In the meantime, calls can go to the general UBHC Access Center toll free number.

- Administrative staff could be hired within eight (8) weeks, but existing UBHC staff can manage the start up of this new contract until the new staff is hired. Some of the staff who formerly worked on our large capitated, managed care contract are still employed by our organization and can temporarily help with the start up of this initiative. This staff is fully able to manage service authorization and claims processing using our existing systems.
 - Network development will begin immediately upon contract award using existing UBHC provider panel information. New purchase orders will need to be established with interested providers. Provider credentialing files will be updated and maintained separately for this contract.
 - Telehealth:
 - The clinician who previously delivered telephonic services to victims of Sandy is still on staff at UBHC and can be transferred immediately to the telehealth role. The telehealth software is already available, and equipment can be relocated temporarily until the new camera and microphone are purchased.
 - It would take 60 days to bring the new psychiatrist on board. The individual identified is an addictions specialist with telepsychiatry experience, but he needs to give notice to his current employer.
- 2. Please describe the recruitment process/strategies for the panel of clinicians to be assembled. Will there be marketing costs associated with the recruitment? Again, if so, these costs must be a part of the 20% of the annual award for this engagement, as addressed above.**

UBHC will use existing provider panel information to recruit the network panel for the Sandy outpatient services. Recruitment mailings will be sent to these providers as well as to lists of independently licensed clinicians. Phone calls and outreach visits be used to finalize negotiations. As detailed previously, marketing costs are included in the section of the budget associated with the administrative costs that are limited to 20% of the annual award.

Referral, Triage, and Care Coordination

- 1. How will UBHC perform screening/triage functions to determine the appropriate service (MH and/or SUD) and coordination of care across Sandy services both paid by UBHC and under other DMHAS contracts (Early Intervention Support Services, detox, short term residential), as well as other appropriate community-based services which may not be funded through SSBG? The narrative states that UBHC will schedule the initial appointments; does that include private practitioners? How will UBHC provide care coordination/care management for individuals, and what criteria will be used to approve continuing care? Please revise and clarify the design of screening, triage, referral, engagement, and care coordination/care management functions.**

UBHC has a long history at its Access Center of performing screening/triage functions to determine the appropriate service and level of care for individuals calling to request treatment. The Access Center handles 3,000 calls per week from individuals either seeking service at the UBHC or calling one of the 18 dedicated lines serving our specialized contracts. The patient management software developed for the Access Center is structured to match the typical conversation staff has with callers, at the same time ensuring that the staff collect and enter all data required by the specific contract associated with the dedicated lines of business. All callers are provided with an initial screening to determine the urgency of their clinical need. The Access Center software has been refined over the years so that the screens help guide the triage assessment. Standardized instruments (e.g., ASAM) assist staff to reliably determine the appropriate level of care.

When callers present at imminent risk, staff stay on the line with the individual while emergency responders are contacted and respond, or until the call is warm transferred to screening center if that is a safe alternative. If the caller is not at imminent risk but is assessed as needing inpatient, Emergency Intervention Support Services, detox or residential treatment, the individual is connected directly to the appropriate service at that level of care. Currently callers who are seeking outpatient treatment and who are assessed as not requiring acute services, are given an intake appointment within UBHC or within the service system contracting with UBHC for this access service. For the Sandy contract, UBHC will obtain first appointments for all network providers, including private practitioners who have the capacity to coordinate with us.

Given that most managed care companies have discontinued utilization management for outpatient services (because members do not tend to over utilize this level of care and it can reduce the need for more expensive acute services), UBHC will give an initial authorization for up to 10 outpatient sessions after eligibility and clinical need has been determined. For continuation beyond this number of sessions, clinicians will need to clinically document medical necessity (continued symptoms that interfere with functioning). Renewal authorizations can be given in five session increments. Psychiatrists are unlikely to require more than 10 medication management sessions.

- 2. How will UBHC distinguish the type of outpatient services to which consumers will be referred based on screening and assessment (i.e., telehealth, outpatient therapy or substance use disorder counseling)? Please develop a triage decision tree that displays the process to determine the referral for service type. Also include a plan to coordinate access to group substance abuse counseling where sufficient demand exists, as this method of service delivery is both efficient and appropriate in many instances.**

See attachment for triage decision tree.

The UBHC clinician will screen callers for their primary presenting problem, a mental health or substance use disorder (SUD). Staff will assess the level of care indicated.

UBHC will ensure that access to group substance abuse counseling exists within the network panel. If sufficient demand exists, the practitioner can create a dedicated group. Otherwise individuals will be referred to existing group substance abuse treatment.

The UBHC clinician will determine the earliest intake appointment in the geographic area where the consumer lives. If there is no available appointment within a timeframe that matches clinical need, the caller will be offered the choice of beginning treatment earlier through telehealth. Telepsychiatry will also be offered if there is no available psychiatrist within a reasonable distance from the individual's home or in cases where the consumer finds it difficult in general to access office based services (no car, no easy public transportation connection, difficulty ambulating or leaving the home).

3. How will UBHC refer individuals to other levels of care?

UBHC currently refers consumers from across the state and beyond to all levels of care for mental health and SUD treatment. Access Center staff have always referred consumers to other treatment providers when callers require a treatment service that UBHC does not provide (e.g., detox) or they live too great a distance from UBHC offices and there are more convenient, alternative service locations. Our statewide suicide prevention hotline and peer helplines all share a mission of connecting callers to local services and resources that can help to alleviate distress and stabilize their presenting situation. UBHC has strong working relationships with mental health and SUD treatment providers throughout the state, and the call center maintains referral information electronically so that it is accessible to all call center staff. The Sandy program staff will enhance this referral information with specific detail relevant to their network panel.

Fiscal Management

1. Please describe UBHC's approach to authorization, encumbrance, and claims payment, including description of how UBHC will manage the utilization or "burn rate."

Based on the professional service agreements established with network providers, purchase orders will be issued to encumber funds by individual provider. The total purchase orders that are set up with the outpatient panel will not exceed the amount budgeted in each fiscal year. UBHC staff will closely track these encumbrances to ensure that amount dedicated to each provider matches consumer utilization. Authorizations that are not used will be canceled and encumbrances reduced to free funds for other consumers. UBHC will communicate regularly with providers so that they clearly understand how utilization is being managed.

UBHC claims staff will review claims received from outpatient providers and verify that services were authorized by utilization management staff. UBHC will not be responsible for paying for emergency services or other higher levels of care beyond outpatient treatment. The administrative analyst will generate necessary paperwork to process and

pay claims from network providers. The careful maintenance of the claims database will ensure that no payment is made for any invoice that exceeds the number of sessions that have been authorized. The administrative analyst will maintain files for all providers containing copies of claims processed and paid.

Please demonstrate how you will document service delivery such that clinicians are reimbursed after services are delivered.

In accordance with the terms of the professional service agreements, providers will be able to send invoices to UBHC on a monthly basis. In order to be reimbursed, the provider will be required to include a progress note for each session included in their invoice. UBHC would securely store all clinical documentation.

As an alternative, UBHC can give providers a customized invoice form that includes fields for the consumer diagnosis and the session dates. The provider would need to sign an attestation statement that treatment was provided on all services dates included on the invoice, and that they understand that they are not able to bill for appointments that the consumer did not keep (cancellations and no shows).

This documentation by the provider should be sufficient to support the invoice, but UBHC can also require that the clinician obtain an attestation from the consumer for each session if DMHAS staff feel that this is necessary.

- 2. Please specify that the 3rd party billing responsibility is with the provider of the service (private practitioner) and that only when reimbursement is not available (as confirmed by practitioner) will UBHC disburse payment. Please describe how UBHC will monitor/verify eligibility, as well as the volume of outpatient services by modality to be delivered to appropriate consumers.**

UBHC can verify Medicaid/Medicare eligibility electronically. We can get an attestation from the consumer that they do not have commercial insurance. That attestation form can include a statement that they understand that they must immediately report any new source of insurance.

- 3. Please describe the billing system being utilized. Do providers enter into an electronic UBHC system? Or is UBHC receiving paper bills from providers and entering the claims into a UBHC billing system? What information does the system capture? Claims payment should be efficient and automated, with tracking built in for future audit of these expenditures in relation to service delivery.**

Network providers with existing purchase orders will submit paper invoices on a monthly basis. UBHC maintains a claims database where all invoice data is entered. Staff prepare daily reports to monitor data entry and monthly reports to analyze the status of the claims processing procedure. Staff are able to use the database to reconcile unpaid claims in order to ensure payments are processed in a timely manner. Data on expenditures will be available for future audits.

Program Integrity and Accountability

- 1. Please describe monitoring functions to confirm that individuals are eligible for services and that consumption of same were documented and in fact rendered to eligible individuals.**

UBHC will obtain documentation that the individual requesting services is a US citizen or permanent legal resident. We will also obtain documentation that during Hurricane Sandy, the individual lived in one of the nine counties designated as having the greatest impact from the storm.

A crucial function provided by UBHC will be the establishment of the need to use these contract funds to pay for services. We will electronically check for Medicaid and Medicare eligibility, and we will obtain an attestation from the individual requesting care that they are not eligible for any other type of reimbursement for the services to be provided; e.g., commercial insurance.

UBHC will maintain secure files for the provider documentation that supports service dates being reimbursed and attestations from individuals receiving treatment verifying services and attesting that they do not have commercial insurance. That attestation form can include a statement that they understand that they must immediately report any new source of insurance.

- 2. Please describe credential verification, validation, update and monitoring procedures to ensure that services are rendered by appropriately licensed and credentialed practitioners.**

UBHC credentialing procedures conform to the standards and guidelines of The Joint Commission. Our staff perform primary source verification of credentials and document the verification at the point that the provider is added to our network and when credentials are renewed. UBHC also verifies and documents that a provider has the education and experience required; this involves primary source verification of academic degrees, internships, residencies, and fellowships. In addition, UBHC queries databases for evidence of a provider's exclusion from State and Federal payment programs. Finally, as part of the credentialing process, providers are asked to complete a series of attestations dealing with prior actions against licenses, denial of privileges, health status/substance abuse status, felony convictions, exclusions from payment programs, and issues involving malpractice.

The UBHC Credentials Verification Form can be updated for use with Sandy network providers, who would be required to complete, sign, and submit the form prior to being approved as a network provider. The following supporting documents would be required to accompany the form:

- copy of current curriculum vitae, along with clarification of gaps in work history greater than six (6) months
- copies of applicable licenses, certifications, and registrations, including Controlled Dangerous Substances (CDS) registration and Drug Enforcement Administration (DEA) Controlled Substance Registration certification (for prescribers)
- primary source verification of highest educational degree.

The credentialing application and supporting documentation would be processed, primary source verifications obtained, and information stored and tracked via a version of the "Licensing and Certifications" database (see screenshot below).

REPORTS BY STAFF TYPE				
APN	CLINICAL STAFF	LCADC AND CADC	PHYSICIANS	CLINICAL RECORD REPORT
LPN	LPC	SOCIAL WORKERS	PSYCHOLOGISTS	
LPN, RN, APN	LPCs AND OTHER COUNSELORS	MENTAL HEALTH CLINICIANS	RESIDENTS	SCREENERS

LICENSING AND CERTIFICATIONS				
BOARD CERTIFICATION	CPR CERTIFIED	CERTS EXPIRED	EXPIRED LICENSES	SCREENER CERT DUE
LICENSED STAFF	CPR CERTIFIED PHYSICIANS	EXPIRED CERTS 120 DAYS	EXPIRED LICENSES 120 DAYS	NURSE CERTS EXPIRED
CDS VERIFICATION	CPR NURSES	LICENSE VERIFICATION OVERDUE		
CDS CERTIFICATION		CERTS AND LICENSE EXPIRATION		
DEA VERIFICATION				
DEA CERTIFICATION				

NPI, MEDICAID, MEDICARE NUMBERS				
NPI NUMBERS	CLINICAL NPI	MEDICARE PIN	MEDICAID PROVIDER #	NPI AND MEDICARE #'S

PRIVILEGING				
STAFF PRIVILEGES	PRIVILEGING DUE	PRIVILEGING OVERDUE	DOB/SSN	STOP
DOCUMENT TRACKING FORM			STAFF PROFILE REPORT	

3. Please describe how UBHC will ensure that SSBG funds are accounted for separately and not intermingled with other DMHAS funding provided to the organization. These resources cannot supplant, replace or cross-subsidize existing

state and/or federal, county, municipal or other local or dedicated funding sources that have been raised to support Sandy recovery efforts.

Specific accounting cost centers are established for every contract which record the approved budget. UBHC manages grants according to accounting principles that ensure that all contract funds, including the SSBG funds, are accounted for separately and are never co-mingled. We ensure that funds are spent in compliance with the terms of the contract.

UBHC acknowledges that the SSBG funds cannot supplant, replace or cross-subsidize existing state and/or federal, county, municipal or other local or dedicated funding sources that have been raised to support Sandy recovery efforts.

- 4. Please provide written assurance as noted above that currently funded services via non-SSBG/Sandy program are not being cross-subsidized by these additional resources with which we want to buy OPD, EISS, etc for a population currently not receiving services.**

UBHC provides written assurance that services currently funded with non-SSBG/Sandy program sources will not be cross-subsidized by these additional resources for the purchase of outpatient, EISS, etc for a population currently not receiving services. As noted above UBHC will maintain discrete accounting for all contract funds.

Reporting

- 1. The agreement between DHS and UBHC will stipulate that UBHC will provide reports to DHS for the timeframes and in the frequency and format required to include all data elements needed to support adherence to SSBG reporting requirements. DMHAS will provide additional detail on required data elements, timeframes, frequency and format.**

UBHC requests a detailed description of the SSBG reporting requirements.

Information Technology, Including Electronic Security and Confidentiality

- 1. Please provide detail on how UBHC will enforce security and confidentiality requirements for telehealth services, including reference to HIPAA and 42 CFR Part 2.**

Rutgers UBHC adheres to HIPAA and HITECH requirements with regard to PHI (protected health information) and SEI (sensitive electronic information). Data collected for this initiative will be stored in an encrypted database located in our secure offsite data center. Only staff who have appropriate rights will have access to enter or report on the data. Permissions and access rights are audited bi-annually, requiring supervisor attestation as to the appropriateness of user level security. Any sensitive/confidential

information sent to outside entities via email is automatically encrypted for transmission via our Zix Email system. During Telehealth sessions, the audio/video data stream is encrypted and only users with appropriate access can make a connection. Lastly, all UBHC staff must complete annual HIPPA training.

2. Please provide detail regarding UBHC's proposed solution to support clinical and fiscal data collection and reporting.

The system used to collect clinical information for this initiative will be built using a data collection template currently employed by other help and peer support lines at UBHC. The system is built with a MS SQL 2012 database back-end and .Net front end application. The connection between the application and database is encrypted. The database is normalized, with data fields setup as discrete when possible. This system offers a standard set of data collection screens that can be modified to enhance its use for a given program: demographic screen, contact/call log screen, and clinical screen. Because of the robust nature of the system and database, the reporting possibilities are only limited by the data that is collected (i.e., if collected, we can report on it).

3. Please describe the IT system that will be used to capture information on the clients being served. Will the independent clinicians be reporting into it? Or will they be providing UBHC with paper forms that will be input? How will UBHC track the clients who are receiving services from telehealth and the independent clinicians?

Only UBHC registered consumers will have a medical record in our Electronic Medical Record (EMR). These consumers could either receive services at one of our outpatient locations in Middlesex or Essex Counties or via telehealth. Network providers will maintain their own clinical record and will only submit to UBHC documentation required to support invoices.

Consumer tracking will initially be recorded in the patient management software at our call center. UBHC can provide data collection elements that track whether the consumer was connected to telehealth or external clinicians. This system allows for multiple date stamped entries that are unique to a given episode of care. Each one of those entries could be categorized as telehealth or independent clinician via a simple data element (check box, drop down list, etc.). Keeping this as a discrete data element will allow for additional reporting. Utilization Management will be recorded in a separate database that will also generate reports.

Exhibit C

Monthly Report for Month of _____, 2013/2014/2015 from UBHC to DHS coordinator

Executive Summary

Service and Utilization Issues:

Significant Events:

Number of Contacts:

Access Center

Face to face

Telehealth

Expenditures for Clinical Services:

Expenditures for Administrative Services:

**SOCIAL SERVICES BLOCK
GRANT PROGRAM**

Information Memorandum

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Community Services
Division of State Assistance
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

www.acf.hhs.gov/programs/ocs/programs/ssbg

Field Code Changed

Transmittal No. 01-2013

Date: March 28, 2013

To: Social Services Block Grant (SSBG) State Officials and Program Contacts

Subject: Hurricane Sandy SSBG Supplemental Funds

Purpose: To provide information to States regarding the distribution of Hurricane Sandy SSBG Supplemental Funds and provide guidance on allowable activities, reporting requirements, filing a Notice of Federal Interest, obligating and expending funds and monitoring

Background: *The Disaster Relief Appropriations Act, 2013 [Public Law (P.L.) 113-2]* was signed into law on January 29, 2013, providing \$500 million in additional funds to the SSBG program ("Hurricane Sandy Supplemental Funds") to address necessary expenses resulting from Hurricane Sandy, including social, health, and mental health services for individuals, and for repair, renovation and rebuilding of health care facilities (including mental health facilities), child care facilities, and other social services facilities. Under the sequestration actions authorized under the Balanced Budget and Emergency Deficit Control Act of 2012 and triggered by the Budget Control Act of 2011 (BCA), these appropriations are subject to a budget sequestration of 5.1 percent. Therefore, the total amount available for distribution to States is \$474.5 million.

Distribution of Funds to States:

The Fiscal Year (FY) 2013 Hurricane Sandy SSBG Supplemental Funds are only available to those States directly affected by Hurricane Sandy between October 25, 2012, and January 29, 2013 (the date of enactment for the law authorizing funds) and which have been declared by the President as a major disaster under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for Hurricane Sandy. The Disaster Relief Appropriations Act, 2013 appropriates funds to address the necessary expenses for disaster response, recovery and other expenses directly resulting from Hurricane Sandy. The U.S. Department of Health and Human Services (HHS) will distribute funding to eligible States based on demonstrated need in accordance with objective criteria that are made available to the public. After due consideration of the demonstrated needs of States directly affected by Hurricane Sandy, HHS has selected an

allocation methodology that provides funding to States directly affected by Hurricane Sandy for continuing social services and rebuilding needs.

In order to receive SSBG Supplemental Funds, States must have received a Presidential disaster declaration for Hurricane Sandy for which Federal Emergency Management Agency (FEMA) Individual Assistance (IA) was authorized. IA is money or direct assistance from FEMA for individuals, families and businesses in an area whose property has been damaged or destroyed and whose losses are not covered by insurance. The FEMA IA data is collected consistently nationwide; is tied to specific declared disasters by State; and is aggregated using individual households that have declared a loss associated with the disaster and who have registered for assistance. HHS determined that the FEMA IA data resource served as the most prudent resource for determining allotments for disaster assistance to the States. The share for these funds is based on the following distribution approach:

- 100 percent of funds will be allocated based on each State's percentage of IA registrants as reported by FEMA as of Monday, March 18, 2013.

A table outlining the allocation to each State is included with this Information Memorandum as Attachment A.

The formula used for allocation of Hurricane Sandy Supplemental Funds differs from the regular SSBG grant, which uses State population data, in that it is based on FEMA's reported number of registrants for IA. FEMA IA registrant data was selected for several reasons. First, there was precedent for using IA registrant data in the allocation of previous SSBG emergency supplemental grants (Gulf Coast Hurricanes and 2008 Presidentially Declared Disasters). Moreover, FEMA IA data serves as a proxy for "demonstrated need" for making funds available, as required by statute.

Allowable Activities:

Services most frequently supported by SSBG include child care, child welfare, services for persons with disabilities, case management services, and protective services for adults. There are uniform definitions for 28 social services. If a service falls outside of the 28 definitions, States report the data under "other services."

Hurricane Sandy SSBG Supplemental Funds are available for services directly related to Hurricane Sandy that fall within the goals of the SSBG program and services as outlined in Title XX of the Social Security Act, as amended [42 U.S.C. § 1397 *et seq.*]. Title XX stipulates that States must direct services to one or more of five social services goals:

- a) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- b) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

- c) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;
- d) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and
- e) Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

The Disaster Relief Appropriations Act, 2013 [Public Law (P.L.) 113-2] further provides that, “in addition to other uses permitted by Title XX of the Social Security Act, funds appropriated in this paragraph for the Social Services Block Grant may be used for health services (including mental health services), and for costs of renovating, repairing, or rebuilding health care facilities, child care facilities, or other social services facilities.” Funds awarded under this act are in addition to the entitlement grants and cannot be used to fulfill entitlements.

Members of Congress expressed through statements on the floor of the House of Representatives that funds may be used for educational transportation services under certain conditions. States may specify in pre-expenditure reports the disaster related conditions under which educational transportation services are necessary. For example, transportation services may be necessary and allowable to prevent educational disruption for children who are temporarily displaced by the disaster and who are unable to access regularly available school transportation services. Additionally, because one of the challenges facing State officials has been the significant impact on child care facilities and the availability of child care for families in the affected areas, States may also access funds under SSBG for temporary child care facilities or to support the rebuilding of child care facilities, to provide assistance to families in accessing available child care, and to provide mental health services to caregivers and young children in child care settings.

Informational Webinars and Consultation:

The Office of Community Services (OCS) will announce dates for informational conference calls/webinar(s) regarding the allowable uses of funds under Title XX and the supplemental appropriation, including waiver processes for any services or activities not allowed under the regular provisions of Title XX. OCS and other HHS Offices such as the Office of Child Care (OCC) will provide technical assistance and help States identify uses for SSBG to provide a comprehensive array of services to support individuals, and families as they recover from the disaster. The conference calls will provide opportunities to discuss allowable uses for critical issues in the aftermath of Hurricane Sandy such as child care, health and mental health services, transportation services, facility repair, renovation, and rebuilding.

State Pre-Expenditure Reports, Required Waivers, and Release of Funds:

To assure immediate access to supplemental resources, the Administration for Children and Families (ACF) will award up to 50 percent of each State's allotment upon receipt of their State's *initial* SSBG Supplemental Funds pre-expenditure report. This report should outline how the State will use available funding for activities allowable under the regular Title XX program, as well as clear timelines for execution and completion of grant activities. ACF will review and accept, comment on, or seek additional necessary information on the State's report of intended use within 10 business days of receipt.

In upcoming weeks, ACF will provide additional information in a question and answer format and will provide technical assistance regarding the allowable uses of funds under Title XX and the supplemental appropriation. Additional guidance can also be provided to address state-specific details on allowable uses for critical issues in each State in the aftermath of Hurricane Sandy. ACF will also provide further guidance on additional reporting requirements related to the use of funds.

To access the full allocation of SSBG Supplemental Funding after guidance and technical assistance have been provided, States must submit a *complete* SSBG Supplemental Funds pre-expenditure report outlining the intended use for the full State allotment of SSBG Supplemental Funds. The detailed and complete report on the State's intended use must be received no later than June 30, 2013, and made available publicly. The complete report should include a report on State plans for property repairs along with a waiver request for health, mental health, and building renovation, repair, or rebuilding activities not allowable under Title XX but allowable under provisions of the Disaster Relief Appropriations Act, as well as a clear timeline for the execution and completion of such activities.

Based on expressed Congressional intent that SSBG funds be available for health, mental health, and building renovation, repair, or rebuilding activities, ACF will conduct expedited review of all waiver requests. Waiver requests for renovation, repair, or rebuilding must include a description of the services and activities to be supported and the extraordinary circumstances warranting a waiver. States must also certify that the requested costs are not reimbursable through FEMA disaster assistance, under a contract for insurance, or by self-insurance. This certification will be verified through sample monitoring visits and review of documentation. Self-insurance is a formal plan, pursuant to law or regulation, in which amounts are set aside in a fund to cover the losses of specified types and amounts, typically by a commercial insurance company. If, during the award, a claim is paid which provides duplication of benefits by FEMA, insurance, or self-insurance, the grantee will be required to return the funds to HHS.

Since disaster related renovation, repair, and rebuilding will be considered extraordinary circumstances, the primary purpose of the waiver requests will be to obtain necessary information for Federal monitoring purposes. Approval of waivers for renovation, repair, or rebuilding of properties may be contingent upon additional information or regular implementation updates and may be subject to additional on-site monitoring and review. Recipients who may be involved in awards for construction, renovation or awards addressing physical or infrastructure damage, must adhere to environmental guidelines,

floodplain, and all other relevant requirements dictated by Federal, State, and local authorities.

The remainder of each State's allocation will be released upon acceptance of the *complete* SSBG Supplemental Funds pre-expenditure report. All funds will be awarded to States no later than September 30, 2013, unless a State can provide a valid reason for a portion of funds to be released at a later date.

States may use SSBG Supplemental Funds for disaster-related social service costs incurred as a direct result of Hurricane Sandy. SSBG Supplemental Funds used to cover costs incurred prior to October 25, 2012, will be subject to Federal review of documentation to verify the expenses are related to Hurricane Sandy response or recovery and have been provided to eligible populations.

Notice of Federal Interest:

If a State undertakes renovations, repairs, or rebuilding to a property that exceed the lesser of \$200,000 or 25 percent of the total allocation for the State, a Notice of Federal Interest (NFI) must be filed in the appropriate property records for the jurisdiction in which the property is located. Renovation, repair, or rebuilding costs that fall below this threshold are not covered by the requirement.

Reporting Requirements:

States that receive these SSBG Supplemental Funds are required to submit a pre-expenditure report (intended use plan) regarding the use of the SSBG Supplemental Funds. Activities will be reported under Code of Federal Domestic Assistance (CFDA) number 93.095.

The deadline for submission of the *complete* SSBG Supplemental Funds pre-expenditure report for the full State allocation will be June 30, 2013, but pre-expenditure reports may be submitted in advance of this deadline. This requirement is in accordance with Section 2004 of the Social Security Act [42U.S.C. § 1397c], which governs reporting requirements for the SSBG program and requires updates for substantial changes in activities supported.

States receiving SSBG Supplemental Funds are also required to submit a post-expenditure report. Due to the unique nature of the SSBG Supplemental Funds, some of the renovation, repair, or rebuilding activities and health services may not fit the State's definition of services or the Uniform Definition of Services provided by HHS. In such cases, the States are advised to note the activity or service as "Other Services" and differentiate between renovation, repair, or rebuilding costs, health care or mental health costs and include details in the SSBG Supplemental Funds post-expenditure report using the definition provided below. These pre- and post-reports are separate from those submitted for the regular SSBG.

States are reminded to track SSBG Supplemental Funds expenditure data for using the required OMB No.: 0970-0234 form. Reporting of renovation, repair, or rebuilding services should include the type of service (e.g. repair, renovation, and/or rebuild) as well

as the number and type of facilities (e.g. health, child care, and/or mental health) for which SSBG Supplemental Funds were used.

Reporting information on health care and mental health services should include the types of activities (or services) supported, and the categories or characteristics of individuals served (such as children, adults 59 and younger, adults 60 and older) [42 U.S.C. § 1397c].

Obligating and Expending Funds:

According to general provisions of The Disaster Relief Appropriations Act, 2013, ACF may obligate funds until September 30, 2015, and grantees may expend funds during the year of obligation and the two succeeding years. As ACF plans to award all funds no later than September 30, 2013, this means each State must obligate and expend its allocation of SSBG Supplemental Funds by September 30, 2015. States will be notified as the deadline to obligate and expend funds approaches through monitoring calls and letters issued to the States.

If a State provides a valid reason that a portion of funds should be released after September 30, 2013, that portion of funds must be expended during the year of obligation and the succeeding two years.

A State has 90 days from the time at which final reports are due to ACF to pay for expenditures incurred through September 30, 2015. As such, a State may pay for the services completed through September 30, 2015, up to December 30, 2015, when the final report is due to the ACF Office of Grants Management (OGM).

Unobligated or unexpended SSBG Supplemental Funds must be reported on the Federal Financial Status Report form, SF-425. In addition to the SF-425, States must return the remaining balance of these funds to the ACF Division of Payment Management.

Monitoring:

ACF will monitor State plans and implementation to assure compliance with all requirements of Title XX of the Social Security Act, The Disaster Relief Appropriations Act, 2013, and additional Federal guidance through Information Memoranda, award documents, and applicable Federal Regulations and Executive Orders. ACF will also utilize review of State plans and review of State reporting information to further assure compliance with all statutory and regulatory requirements. As noted above, regulations require an annual SSBG post-expenditure report with information on the services provided, total number of adults and children served, and amounts expended for each service. OCS will request separate pre- and post-expenditure reports for Hurricane Sandy Supplemental Funds.

ACF will also consult with States to identify and describe planned modifications to internal control systems in any circumstances in which new subrecipients (e.g. contracts) will be put in place by States to deliver services with Hurricane Sandy Supplemental Funds. On-site monitoring review will be used to assure compliance. ACF will also

utilize Office of the Inspector General (OIG) reports and State audits to assure compliance with all program and financial requirements.

ACF may issue additional guidance via information memoranda or direct correspondence with States regarding additional monitoring requirements, data collection and validation, and financial review and analysis designed to assure that funds are used for the intended purpose and to mitigate against waste, fraud and abuse.

OCS and its contractors plan to conduct monitoring and compliance visits for initial review of activities as early as June 2013 and periodically over the full period of project implementation. The process of audit and close-out activities are scheduled to begin effective September 2015 with an end date of September 2016.

State Checklist For Obtaining Funds:

- State assessment of social, health, mental health service, child care and other needs for individuals and families in communities affected by Hurricane Sandy.
- State submits *initial* SSBG Supplemental Funds pre-expenditure report to HHS and HHS releases up to 50 percent of State allocation.
- State assessment of needs for repair, renovation and rebuilding of health care facilities (including mental health facilities), child care facilities, and other social services facilities damaged by Hurricane Sandy and formulates use plan.
- State submits *complete* SSBG Supplemental Funds pre-expenditure report to HHS and HHS releases 100 percent of State allocation. The report includes details on plans for property repairs along with a waiver request for health, mental health, and building renovation, repair, or rebuilding activities not ordinarily allowable under Title XX.

Additional Information:

Definition and allowability of direct and administrative cost:

<http://www.acf.hhs.gov/programs/ocs/resource/definition-and-allowability-of-direct-and-administrative-costs>

Reporting of SSBG Supplemental Emergency Fund Expenditures:

<http://www.acf.hhs.gov/node/6036>

The U.S. Department of Health and Human Services (HHS) has a toll-free hotline for people in crisis in the aftermath of this disaster. People in crisis are urged to call 1-800-273-TALK (1-800-273-8255).

Questions pertaining to the return of SSBG Supplemental Funds to the U.S. Department of Health and Human Services should be directed to:

HHS Division of Payment Management
P.O. Box 6021

Attachment A
Social Services Block Grant
Hurricane Sandy Supplemental Funds
State Allocation Table

State	Percentage Share Based on State FEMA Individual Assistance Registrants	Allocation
Connecticut	2.23%	\$10,569,192
Maryland	0.25%	\$1,185,675
New Jersey	47.80%	\$226,794,105
New York	49.62%	\$235,434,600
Rhode Island	0.11%	\$516,428
Total		474,500,000

All funds are allocated by each State's share of Individual Assistance (IA) registrants through March 18, 2013, as reported by the Federal Emergency Management Agency (FEMA). Each State's allocation is a share of total available funding of \$474.5 million, which is the amount appropriated under the Disaster Relief Appropriation Act after the application of a 5.1% sequestration in accordance with the Balanced Budget and Emergency Deficit Control Act.

Exhibit E

Notice of Executive Order 125 Requirement for Posting of Winning Proposal and Contract Documents

Pursuant to Executive Order No. 125, signed by Governor Christie on February 8, 2013, the Office of the State Comptroller (“OSC”) is required to make all approved State contracts for the allocation and expenditure of federal reconstruction resources available to the public by posting such contracts on an appropriate State website. Such contracts are posted on the New Jersey Sandy Transparency website located at:

<http://nj.gov/comptroller/sandytransparency/contracts/sandy/>.

The Memorandum of Agreement (MOA) is subject to the requirements of Executive Order No. 125. Accordingly, the OSC will post a copy of the MOA on the Sandy Transparency website.

State of New Jersey Standard Terms and Conditions

1. **STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT-** Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

2. **STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS** - The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

- 2.1 **BUSINESS REGISTRATION** – Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

- 2.2 **ANTI-DISCRIMINATION** - All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

- 2.3 **PREVAILING WAGE ACT** - The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.26 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by [this proposal] has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his guarantee that he and any subcontractors he might employ to perform the work covered by [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

- 2.4 **AMERICANS WITH DISABILITIES ACT** - The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

- 2.5 **MACBRIDE PRINCIPLES** – The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

- 2.6 **PAY TO PLAY PROHIBITIONS** – Pursuant to N.J.S.A. 19:44A-20.13 et seq. (L.2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:
 - a. make or solicit a contribution in violation of the statute;
 - b. knowingly conceal or misrepresent a contribution given or received;
 - c. make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;

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- d. make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee;
- e. engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- f. fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- g. engage in any exchange of contributions to circumvent the intent of the Legislation; or
- h. directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 POLITICAL CONTRIBUTION DISCLOSURE – The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST - The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

- a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.
- b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
- c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.
- d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f. The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE - Pursuant to L 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set

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off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

- 2.10 COMPLIANCE - LAWS** - The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.
- 2.11 COMPLIANCE - STATE LAWS** - It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.
- 3. STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT**
- 3.1 COMPLIANCE - CODES** - The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.
- 3.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT** - The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.
- 3.3 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS** - N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:
- a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
 - b) The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
 - c) The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.
 2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
 3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.
 4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.
- 3.4 **BUILDING SERVICE** – Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.
- 3.5 **THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** - The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.
- 3.6 **SERVICE PERFORMANCE WITHIN U.S.** – Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b)(1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

- 3.7 **BUY AMERICAN** – Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States and the contractor shall be required to so certify.

4. **INDEMNIFICATION AND INSURANCE**

- 4.1 **INDEMNIFICATION** - The contractor's liability to the State and its employees in third party suits shall be as follows:
- (a) Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.
 - (b) The contractor's indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions.
 - (c) In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

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- 4.2 INSURANCE** - The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A- VIII or better rating by A.M. Best & Company. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, and the certificates shall reflect that the insurance policies shall not be canceled for any reason except after sixty (60) days written notice to the State. Certificates of renewals shall be provided within thirty (30) days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, PO Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancellation shall be emailed to the State at:

ccau.certificate@treas.state.nj.us

The insurance to be provided by the contractor shall be as follows:

- a. Occurrence Form Comprehensive General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$1,000,000 BODILY INJURY, EACH OCCURRENCE
\$1,000,000 DISEASE EACH EMPLOYEE
\$1,000,000 DISEASE AGGREGATE LIMIT

- d. This \$1 million amount may have been raised by the RFP when deemed necessary by the Director.
- e. In the case of a contract entered into pursuant to N.J.S.A. 52:32-17, et.seq., (small business set asides) the minimum amount of insurance coverage in subsections a., b., and c. above may have been lowered in the RFP for certain commodities when deemed in the best interests of the State by the Director.

5. TERMS GOVERNING ALL CONTRACTS

- 5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR** – The contractor's status shall be that of any independent contractor and not as an employee of the State.
- 5.2 CONTRACT AMOUNT** - The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.
- 5.3 CONTRACT TERM AND EXTENSION OPTION** - If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least thirty (30) days prior to the expiration date of the existing contract. The contractor shall have fifteen (15) calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions including pricing of the original contract shall apply unless more favorable terms for the State have been negotiated.
- 5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK** – The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the

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Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- (a) If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price.
- (b) If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.5 CHANGE IN LAW – Whenever a change in applicable law or regulation affects the scope of work, the Director shall provide written notice to the contractor of the change and the Director's determination as to the corresponding adjusted change in the scope of work and corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- (a) If the contractor does not agree with the adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the adjusted contract price. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price.
- (b) If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.6 SUSPENSION OF WORK - The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

- a. For Convenience
Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than thirty (30) days written notice to the contractor.
- b. For Cause
 1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17: 12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days notice to the contractor with an opportunity to respond.
 2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days notice to the contractor with an opportunity to respond.
- c. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond.
- d. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

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5.8 SUBCONTRACTING OR ASSIGNMENT -

- a. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws.
- b. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE - Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 MERGERS, ACQUISITIONS - If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than thirty (30) days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within thirty (30) days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR - The contractor hereby certifies that:

- a. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
- b. All equipment supplied to the State and operated by electrical current is UL listed where applicable.
- c. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location.
- d. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.
- e. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
- f. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract.
- g. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS -

- a. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract.
- b. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice.
- c. Items delivered must be strictly in accordance with the contract.
- d. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

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- 5.13 APPLICABLE LAW AND JURISDICTION** - This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.
- 5.14. CONTRACT AMENDMENT** – Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.
- 5.15 MAINTENANCE OF RECORDS** - The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the State, including the Comptroller, for audit and review.
- 5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)** - The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

In connection with this assignment, the following are the express obligations of the contractor:

- a. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder.
- b. It shall advise the Attorney General of New Jersey:
 1. in advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action;
 2. immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- c. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey.
- d. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. TERMS RELATING TO PRICE AND PAYMENT

- 6.1 PRICE FLUCTUATION DURING CONTRACT** - Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

- 6.2 TAX CHARGES** - The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS -

- a. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by

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- the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.
- b. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized.
 - c. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls.
 - d. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

6.4 OPTIONAL PAYMENT METHOD: P-CARD - The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT - The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within sixty (60) days of the agency's receipt of a properly executed State Payment Voucher or within sixty (60) days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS - The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenues.

MEMORANDUM OF AGREEMENT

MODIFICATIONS TO ATTACHED STANDARD TERMS AND CONDITIONS

Paragraph 4.1(a) is replaced by the following: Between the DHS/DMHAS and Rutgers, The State University of New Jersey/RBHS/UBHC (hereinafter "UBHC"), the DHS/DMHAS, subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, shall be responsible for, and shall at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act or omission of the DHS/DMHAS, its employees, agents or contractors, in the performance of the obligations assumed by the DHS/DMHAS pursuant to this MOA. The DHS/DMHAS hereby releases UMDNJ from any and all liabilities, claims, losses, costs, expenses and demands of any kind or nature whatsoever, arising under State or Federal law, solely out of or in connection with the DHS/DMHAS' s performance of the obligations assumed by the DHS/DMHAS pursuant to the MOA.

4.1(b) is replaced by the following: Between the DHS/DMHAS and UBHC, subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, shall be responsible for, and shall at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act or omission of UBHC, its employees, agents or contractors, in the performance of the obligations assumed by UBHC pursuant to this MOA. UBHC hereby releases the DHS/DMHAS from any and all liabilities, claims, losses, costs, expenses and demands of any kind of nature whatsoever, arising under State or Federal law, solely out of or in connection with UBHC performance of the obligations assumed by UBHC to this MOA.

Changes to paragraph 4.2 are as follows:

1. 60 (sixty) days is replaced by 30 (thirty) days
2. 4.2(a) changes the words "name(d)" to "include(d)"
3. 4.2(b) is changed to:

UBHC shall maintain at its own cost and expense during the term of this Agreement and any renewals thereof, a program of general and professional self insurance coverage insuring UBHC, and its faculty, students, employees, staff, and agents against claims for bodily injury or death and property damage resulting from the performance of services or omissions of UBHC its faculty, students, employees, staff and agents under this Agreement. UBHC shall provide for coverage through a program of self-insurance which shall protect Rutgers against claims arising from the professional services or omissions of UBHC its faculty, students, employees, staff and agents pursuant to this Agreement. The program of self-insurance shall be governed by the terms and provisions of the State of New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and NJSA 18A:64G(w)(2).

4. Changes to 4.2(c) adding the self-insurance for worker's compensation and commercially purchased Employer Liability insurance

We, the undersigned, consent to the contents of this Agreement.

New Jersey Department of Human Services:

Signature:  _____
Lynn Koych, Assistant Commissioner
Division of Mental Health and Addiction Services

10/31/13
Date

Rutgers, The State University of New Jersey
RBHS – University Behavioral Health Care

Signature:  _____
Casandra Burrows
Acting Assistant Director

10/14/13
Date