

Broken Arrow Public Schools
Contract for Treatment Services or Other Integrated Services – Governmental
FY21

This contract is made and entered into this **1ST day of January, 2021** between the **State of Oklahoma--Oklahoma Department of Mental Health and Substance Abuse Services** (hereinafter referred to as "Department" or "ODMHSAS"), and **Broken Arrow Public Schools** (hereinafter referred to as "Contractor"), 1901 E Albany Street, Broken Arrow, OK 74012 **FEI 73-6060638 and DUNS No. 933018624.**

In consideration of the provisions set forth herein, the parties mutually agree to the following provisions and any addenda attached or referenced hereto and incorporated herein.

I. STATUTORY AUTHORITY AND EFFECTIVE DATES OF CONTRACT

- A.** This contract is authorized pursuant to and in accordance with the provisions of 43A O.S. §1-101 *et seq.* and 450:1-3-14 through 450:1-3-21 of the Oklahoma Administrative Code and is in effect **January 1, 2021 through June 30, 2021.**
- B.** The parties to this contract understand and acknowledge any future contracts or renewals are not automatic nor implied by this contract. The parties further acknowledge and understand this contract is effective only for the term set forth in Paragraph I (A) above. The Department, upon expiration of this contract and in its sole discretion, may offer the Contractor an opportunity to renew this contract for an additional term.

II. STATEMENT OF WORK

- A.** Contractor shall provide the services as indicated and in the manner set forth in the most recent version(s) of the statement(s) of work (SOW) attached or incorporated by reference here. SOWs can be found on the Department's ARC website (<http://www.odmhsas.org/arc.htm>). Said SOW(s) and other addenda shall be binding on the parties of this contract as if fully stated herein. Additional work requirements include the following checked documents: Eligibility and Target Population Matrix, BigSOWCMHCs, and GeneralSUDServices (<http://www.odmhsas.org/arc.htm>).

III. PERFORMANCE REQUIREMENTS

- A.** The Contractor agrees to abide by all federal laws and regulations, all state laws and regulations, the provisions of this contract and addenda attached or referenced hereto, including but not limited to all licensing, permit, or certification requirements; all applicable Department standards and criteria; labor laws and workers' compensation laws. Any act committed by a Contractor, its officers, directors, employees, or other authorized persons, which violates any of the foregoing will constitute a breach of this contract. Further, the Contractor shall insure any consumer served by the Contractor pursuant to this contract shall receive care and treatment in accordance with 43A O.S. §1-101 *et seq.* and Title 450 of the Oklahoma Administrative Code. Failure to provide care and treatment in accordance with 43A O.S. §1-101 *et seq.* and Title 450 of the Oklahoma

Administrative Code shall be deemed a breach of this contract. Abuse, neglect, and violation of consumer rights shall not be condoned. The Contractor is expected to take appropriate measures to prevent such instances, including termination or other appropriate discipline against any employee or agent of Contractor found to have (a) abused or neglected, mentally or physically, or otherwise violated the rights of any consumer or (b) permitted such.

Contractor agrees that grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended...in full accordance with U.S. statutory ...requirements.”); 21 U.S.C. §§ 812(c) (10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

- B.** Contractor shall abide by all state and federal laws and regulations restricting the disclosure of consumer information, including 43A O.S. §§1-109 and 3-422, 42 U.S.C. §290dd-2, 42 C.F.R. Part 2, 45 C.F.R. Parts 160 and 164 including the HITECH section of the American Recovery and Reinvestment Act (ARRA), and Title 450 of the Oklahoma Administrative Code.
- C.** Contractor shall comply with the Deficit Reduction Act of 2005, which requires all entities that receive or make at least five million dollars (\$5,000,000) in annual Medicaid payments to establish specific compliance policies and to include certain provisions with respect to federal and state laws and whistleblower protections. Please refer to Deficit Reduction Act of 2005; Federal False Claims Act, 31 U.S.C. §§ 3729 – 3733, 3801 *et seq.*; OHCA-2006-30; Oklahoma Medicaid False Claims Act, 63 O.S. §5053 *et seq.* for more information.
- D.** Contractor (and any subrecipients at any tier) must comply with, and are subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

Contractor (and any subrecipients at any tier) must inform their employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Potential fraud, waste, abuse, or misconduct involving or relating to federal funds should be reported to the Office of the Inspector General by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oiq.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at

(800) 869-4499 (phone) or (202) 616-9881 (fax). Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.

- E.** Contractor agrees to possess and demonstrate compliance with all licenses, certifications, and permits that are required to lawfully perform the duties under this contract, including but not limited to Department Certification. Loss of required certification, permit, or license by the Contractor shall automatically terminate this contract. All persons providing treatment or related treatment services that are lawfully required to perform those services under this contract shall be documented as licensed, certified, and otherwise trained as outlined in this contract, or under supervision prior to performing treatment services. Persons providing treatment services shall have training in cultural-specific, age-specific, and gender-specific issues and shall be at least twenty-one (21) years of age and non-treatment professionals shall be at least eighteen (18) years of age. Contractor shall make continuing education available to all facility employees engaging in treatment services and prevention activities regarding such services and activities they provide.
- F.** The Contractor shall not reassign this contract, or any part thereof, or engage in any subcontract to provide the services herein without prior written approval of the Department. If approved, the Contractor shall be liable for any act of the subcontractor, including any act that constitutes a breach of this contract. An approved subcontractor shall be subject to the terms of this contract or grantor agency; and, if the source of funding is federal, subcontractor is also subject to subrecipient terms and conditions of that funding. The Contractor or subcontractor shall not obligate the Department to pay any sums to the Contractor, subcontractor, or any other person or entity without the prior written approval of the Department. Any subcontracts shall be terminated if a conflict of interest arises between the subcontractor and the Department.
- G.** In the performance of all services rendered under this contract, the Contractor shall act solely as an independent contractor and nothing herein shall at any time be construed so as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the parties.

Contractor assures that neither the Contractor nor anyone subject to the contractor's direction or control has paid, given, or donated or agreed to pay, give, or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

Contractor also assures that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the Contractor to fulfill any of the services provided for under said contract. No current state employee will engage in the performance of the contract unless approved by the State Purchasing Director.

- H.** The Contractor shall not solicit consumers through gratuitous offerings, incentives, gifts, or other offerings for any service provided by the Contractor; nor shall the Contractor allow any other provider to solicit consumers of the Contractor through gratuitous offerings, incentives, gifts, or other offerings. The Contractor shall not use any coercion, duress, force, or similar action, real or threatened, against any

consumer for the purpose of soliciting consumers or for the purpose of hindering or obstructing any investigation conducted by the Department, any other governmental agency, or advocacy group.

- I. The Contractor shall provide the services as set forth herein without regard to a consumer's ability to pay. No person meeting the Department's eligibility requirements and needing the services authorized herein shall be denied treatment or services for inability to pay, and said person must be notified, in a reasonable manner, of this provision.
- J. The Contractor certifies that it and all proposed subcontractors, whether known or unknown at the time this contract is executed or awarded, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes, but is not limited to, the free Employee Verification Program (E-Verify) available at www.dhs.gov/E-Verify.
- K. Contractor, Contractor's employees, subcontractor, and subcontractors' employees shall not engage in trafficking in persons, procure commercial sex acts, or use forced labor in the performance of this contract.
- L. Contractor shall use ODMHSAS funding (except that which is provided as the state match for services to Medicaid consumers) only for services to individuals who meet the eligibility criteria prescribed by the ODMHSAS. Such services are subject to the availability of funds, except that Contractor agrees to provide as a condition of contract award and irrespective of the availability of funding pursuant to this contract, emergency care (to include crisis intervention, if the Contractor is a provider of such services, as well as medical detoxification, medically supervised detoxification, evaluation, and referral services) to all persons presenting and in need of such services. Contractors must seek and receive ODMHSAS approval before refusing services to any person who meets eligibility criteria.
- M. Contractor or designee shall attend all meetings that ODMHSAS, in ODMHSAS's sole discretion, deems mandatory.
- N. Contractor shall provide trauma-informed, gender sensitive, age appropriate and culturally competent treatment for all consumers.
- O. If applicable, Contractor shall designate a domestic violence (DV) liaison. DV liaison will be available to all staff. The DV liaison shall be responsible for developing a relationship with the closest domestic violence agency, collaborate with these agencies to become aware of the services available, ask for case consultation related to a client with domestic violence issues if needed, post domestic violence referral information in the client waiting areas, and develop a partnership with these agencies so that a seamless referral system is in place when needed for consumers seeking domestic violence resources. The Domestic Violence liaison for the agency is required to complete 3 hours of ODMHSAS designated domestic violence training. Training may be obtained on-line or at the annual Partners for Change Conference sponsored by the Oklahoma Attorney General's Office. Agency domestic violence liaisons shall complete training within

90 days of designation. The certificate of completion will be verification of meeting this requirement and should be filed in the employee personnel file.

- P. Contractor shall provide Department with the percent of administrative overhead, based on generally accepted accounting practices, upon request by Department.
- Q. If applicable, each consumer who is eligible to vote according to law has the right to vote in all primary and general elections. Each facility shall make reasonable efforts to enable eligible persons to register to vote, to obtain applications for absentee ballots and comply with other requirements which are prerequisite to voting, and to vote (Title 450, Chapter 15, Consumer Rights, 450:15-3-13 and 450:15-3-27).

IV. COMPENSATION

A. Definitions

Contract Line: identifies the service or program name.

CS (Contract Source): an identifier used to distinguish an array of services that may be provided within a specific program or contract line.

Maximum Payment: identifies the total amount of funding for the identified contract period by contract line.

SOW: identifies the name of the attached Statement of Work (SOW) by which the specific work requirements for the program are found.

- B. In accordance with the terms of this contract, the Department will pay the Contractor an amount not to exceed **\$56,000.00** unless amended in writing and approved by Contractor and Department, payable to the Contractor as set forth below.

Contract Line	CS	CFDA #	SOW http://www.odmhsas.org/arc.htm	Maximum Payment
Mental Health Supports in Schools - Oklahoma Resiliency and Recovery (OK R&R) Program - Embrace OK Fund - Federal	n/a	939820000	Non-Categorical SOW	\$56,000.00

When providing treatment services, Contractor shall ensure the availability of the levels of care indicated in the SOW(s) and addenda throughout the term of the contract.

The Department shall only pay upon receipt of an invoice for services, which shall be submitted to the Department not more than sixty (60) days from the day services were last rendered during the invoice month. Invoices shall be electronically submitted using the eProviderInvoice application in Access Control, emailed to

contracts@odmhsas.org, or mailed to ODMHSAS. The Department agrees to make payment to Contractors within forty-five (45) days of receipt of a proper invoice (Title 62 O.S. § 34.73) in accordance with Title 62 O.S. § 34.71, or proper submission of data through the Oklahoma Health Care Authority (OHCA) Medicaid Management Information System (MMIS).

B.1. Services with a Contract Source will be reported through the Oklahoma Health Care Authority (OHCA) Medicaid Management Information System (MMIS).

For eligible services, Customer Data Core (CDC) information must be filled out appropriately and completely with any level of care change or at a minimum of every six (6) months to obtain payment through this contract. If any of the information is determined missing from the CDC or not properly updated, the Department has the right to credit services provided to that consumer, request recoupment or suspend payment. CDC information shall be entered into a location and format as prescribed by the Department.

Fee-for-Service, or fixed rate, services eligible for payment pursuant to this contract are listed on the ODMHSAS ARC website under Billing Information and "Contract Source by Service" at <http://www.odmhsas.org/arc.htm>, unless otherwise noted by the ODMHSAS.

B.1.a. Many contract services shall require prior authorization. Prior Authorizations (PA's) will not be issued unless a current CDC has been entered for the respective consumer.

B.1.b. Contractor is required to comply with the ODMHSAS Services Manual which is hereby incorporated by reference (<http://www.odmhsas.org/arc.htm>). Contractor shall enter contract services for reporting and payment through the Oklahoma Health Care Authority (OHCA) Medicaid Management Information System (MMIS) via Internet web application, Medicaid on the Web, file transfer, or online interactive applications. Contractor shall take all necessary steps for assuring the capacity to interface with MMIS and maintaining staff knowledge of current data processing procedures documented in the ODMHSAS Services Manual.

B.1.c. If Contractor enters into a billing service agreement, Contractor shall be responsible for the accuracy and integrity of all claims submitted on Contractor's behalf by the billing service.

B.2. Cost Reimbursement Contracts are contracts that require submission of an invoice by the Contractor for services already provided. Invoices are based on the Contractor's submitted budget and appropriate documentation. Documentation for Contractor expenditures is required prior to payment. Invoices paid by the Department may be limited to a cumulative one-twelfth (1/12) of the total contract amount each month.

- B.3. One-Twelfth (1/12) Contracts** are assigned a yearly value and payment is apportioned throughout the fiscal year in one-twelfth (1/12) increments, or depending on the start date of the program, payment is distributed equally based on the number of months remaining in the state fiscal year. Contractor shall submit an invoice and appropriate documentation of the services provided prior to the Department issuing payment.
- C.** Funding sources utilized to make payments pursuant to this contract (e.g. state and federal, etc.) shall be at the ODMHSAS discretion and shall not be subject to review or considered a breach of this contract. Contractor agrees that by accepting federal funds from the Department, Contractor is in receipt of pass-through federal funds and may be considered to be a subrecipient of these federal funds. Therefore, Contractor may be subject to all federal rules and regulations applicable to the appropriate expenditure of federal funds. See 2 CFR 200, http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl and its Compliance Supplement and the Certifications and Assurances bound to receipt of federal funds. If Contractor is a subrecipient of federal funding, Contractor is required to maintain current and accurate information in the Central Contractor Registration (CCR); primary registrant database for the U.S. Federal Government and have obtained a DUNS (Dunn and Bradstreet Number). If Contractor is in receipt of federal funding, Contractor shall be identified as either a subrecipient or vendor in the Federal Funding Identification Form. The auditee of a Single Audit shall comply with provisions of 2 CFR Sections 200.508-512, pertaining to audit requirements for auditees.
- D.** The Department may perform site reviews at all contracted programs. Review findings will be shared with Contractor in the form of a written report. If the report indicates an overpayment, Contractor will have 60 days to repay or credit the Department for the identified services.
- E.** Contractors are encouraged to develop additional funding streams. Contractors must identify alternative coverage and bill such sources including Medicaid. No payments will be made by the Department until Medicaid or alternative resources are exhausted or determined unavailable for these services. Failure to bill third parties may result in an overpayment or termination of the provider contract. This contract is not meant to supplant current payment resources.
- F.** The following provisions are applicable to providers of Medicaid services for which the Department is responsible for payment of the state match:
- F.1.** The Department shall pay the Oklahoma Health Care Authority (OHCA) the state match for OHCA-reimbursed services delivered by the Contractor in the Contractor's ODMHSAS service area to Medicaid-eligible adults.
- F.2.** Such payments shall be made pursuant to appropriate documentation and as prescribed by the Oklahoma Health Care Authority.
- F.3.** Such payments shall be from state funding made available to support adult or children/adolescent substance abuse services, Community Mental

Health Center (CMHC) adult mental health services performed in designated service areas, and Systems of Care (SOC) Family Support Provider services.

- F.4.** In the event the amount necessary to make the Medicaid Match payments exceeds the match funding set aside for such purpose, the necessary additional funds will be transferred from the state funding provided herein for adult or children/adolescent substance abuse services, Community Mental Health Center (CMHC) adult mental health services performed in designated service areas, and Systems of Care (SOC) Family Support Provider services. Any state match funds remaining at the conclusion of the contract term may, at the discretion of ODMHSAS, be transferred to this contract for any pending adult or children/adolescent substance abuse services, or adult mental health services.
- G.** Unless approved in writing by the Department, the Contractor shall use no portion of Federal Block Grant Funds (Public Health Services Act) for:
 - G.1.** Inpatient services (Mental Health Block Grant) or inpatient hospital services (Substance Abuse Prevention and Treatment Block Grant).
 - G.2.** Cash payments to recipients of services.
 - G.3.** The purchase or improvement of land; purchase, construction or permanent improvements (other than minor remodeling) of any building or other facility; or purchase of major medical equipment.
 - G.4.** Satisfaction of any requirement for the expenditure of non-federal funds as a condition for receipt of federal funds.
 - G.5.** Financial assistance (i.e., a subgrant) to any entity other than public or nonprofit private entity.
 - G.6.** Needle exchange programs or the provision of hypodermic needles or syringes to individuals.
 - G.7.** Inherently religious activities, such as worship, religious instruction, or proselytization.
- H.** The Contractor shall use no federal funds to pay an employee a salary at a rate in excess of Executive Level II of the Federal Executive Pay.
- I.** For eligible services, Contractors shall seek Title XIX reimbursement from the Oklahoma Health Care Authority for eligible services rendered. The Contractor shall in good faith also seek reimbursement from Title XVIII (Medicare parts A & B) or any other third party source. The Contractor will not invoice the Department for services eligible for reimbursement from any other third party source. The Department will not reimburse for services compensated by any other party or source.

- J. Department may reduce the payment to the Contractor in the event a shortfall of state or federal funding occurs. The amount decreased from the Contractor's payment shall be at the sole discretion of the Department and shall not be actionable by the Contractor.
- K. Contractor shall report eligible services for payment according to procedures prescribed by the Department. The Department will provide access to enter and retrieve information via Internet web application, file transfer, or online interactive applications. The Contractor is responsible for assuring the capacity to interface with the Department's system via the Internet no later than the effective date of this contract and maintaining staff knowledge of current data processing procedures documented in the ODMHSAS Services Manual.
- L. The Department can suspend payment until the services provided can be verified by Department staff, not to exceed 60 days, unless the Contractor has failed to provide the requested documentation. In the event payment has been suspended, Contractor must fully cooperate with Department staff to verify services.

V. GENERAL PROVISIONS

A. Technical Assistance

The Department, upon written request and if available, may provide to the Contractor technical assistance to ensure compliance with this contract.

B. Reports

The Department may prescribe and require reports from the Contractor during the effective dates of this contract. All reports, financial and otherwise, required by the Department, shall be in the format as indicated by the Department and may include, but not be limited to, cost reports, expenditure reports, and balance sheets. The Department may, upon reasonable notice, withhold payments otherwise due under the terms of this contract, if the Contractor fails to submit required reports on a timely basis.

C. Surveys

The Contractor, upon reasonable notice, agrees to participate and cooperate in surveys, studies, or research projects conducted by any governmental agency.

D. Access to Records

The Contractor agrees that books, records, documents, accounting procedures, practices or any other items of the service provider relevant to this contract are subject to inspection, examination and copying by the Department, its designee, and the Office of the Oklahoma State Auditor and Inspector. Further, the Contractor shall fully cooperate with the Department during investigations of complaints involving consumer abuse, neglect, improper treatment, or any violation of consumer rights. Cooperation shall include, but is not limited to, immediate access to consumers, staff members, facilities, consumer records, or any other records or documents regularly kept by the Contractor.

E. Audit and Records Clause

- E.1.** As used in this clause, records shall include, but are not limited to, any books, documents, accounting procedures and practices, and other data, regardless of type or form. In accepting this contract with ODMHSAS, the Contractor agrees any pertinent state or federal agency will have the right to examine and audit all records relevant to the execution of the resultant contract.
- E.2.** The Contractor is required to retain all records and supporting documentation relative to this contract for the duration of the contract term and for a period of seven years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is initiated before the end of the seven-year period, the records are required to be maintained for seven years from the date that all issues arising out of the action are resolved or until the end of the seven year retention period, whichever is later.
- E.3.** Contractor agrees the review of all records as they relate to the performance of professional services is to be subject to examination by the Department, the State Auditor and Inspector and the State Purchasing Director.

F. Financial Audit

A financial statement audit or other engagement is required under the conditions provided below. The type of audit or engagement is determined separately for state and federal funds. State funds include only those received from the Department. Federal funds include those from all sources (federal agencies, the Department, or other entities). The expenditure of federal funds is based on when the activity for the expenditure occurs, not when the expenditure is made. The Department will notify the Contractor of any federal awards made under this contract. The Department reserves the right to require an independent financial statement audit of the Contractor, the cost of which shall be paid by the Contractor.

- F.1.** State funds. A state or local governmental entity that has received state awards of \$100,000 or more shall obtain a financial statement audit conducted in accordance with generally accepted governmental auditing standards (Yellow Book). For awards of \$100,000 or more, a nongovernmental Contractor shall obtain an audit conducted in accordance with generally accepted auditing standards (basic type). For entities which have received a Single Audit, a Yellow Book or basic audit will not be required; however, the entity must still submit a Schedule of State Awards for awards received from ODMHSAS, if the state awards are greater than or equal to \$100,000.
- F.2.** Federal funds (expenditures of \$750,000 or more from all sources). The Contractor shall obtain an audit conducted in accordance with the Single Audit Act of 1984, as revised by the Single Audit Act Amendments of 1996, and 2 CFR 200 and the Uniform Guidance for Federal Awards. An

applicable portion of federal funds (such as the percentage of federal fund expenditures to total expenditures) may be used to pay for this audit when the audit covers all funds and operations of the Contractor. In addition to obtaining a Single Audit, the Contractor shall permit the Department to perform a compliance engagement or have a compliance engagement performed of the Department's federal award(s) at the discretion of the Department. Such engagement, if conducted, shall be at the Department's expense.

- F.3.** Federal funds (expenditures of less than \$750,000 from all sources). Federal compliance monitoring may be performed at the direction of the Department for funds received from the Department.
- F.4.** Regardless of the above provisions, the Contractor shall submit to the Department a copy of financial audit reports obtained for other reasons. This copy shall include, if present, the additional Yellow Book reports, the additional 2 CFR 200 and the Uniform Guidance for Federal Awards (previously known as OMB Circular A-133) reports, and the management letter.
- F.5.** Audits under this section shall be performed by independent and properly licensed Certified Public Accountants, and the lead (reviewing) partner of the audit firm is to be rotated off the audit every five (5) years.
- F.6.** Unless otherwise provided, a financial statement audit shall include, in one or more reports, all operations and funds of the Contractor and of any entities or persons related to or affiliated with the Contractor. The audited financial statements of nongovernment entities shall include at least a statement of financial position, a statement of activities, a statement of cash flows, and a statement of functional expenses.
- F.7.** If state funds are received under this contract, the audited financial statement report shall also include a supplementary schedule of state awards, which identifies each award, the amount awarded and the total amount received or recognized.
- F.8.** The audit(s) shall be for the Contractor's fiscal year(s) during which this contract is in force.
- F.9.** The Contractor shall submit one complete copy of its financial statement audit report(s), as required above, to the Department's Internal Audit Division at the email address: ProviderAudits@odmhsas.org within six (6) months of the close of the Contractor's fiscal year(s). The copy shall include, as applicable, copies of all reports issued pursuant to 2 CFR 200 and the Uniform Guidance for Federal Awards (previously known as OMB Circular A-133) and *Government Auditing Standards*. A management letter, if issued, shall be submitted.
- F.10.** The books and records of the Contractor and the work papers of the Contractor's auditor shall be made available, if needed, to the Department's cognizant federal agency, the Department, the Department's auditor, the

State Auditor and Inspector, and the Comptroller General of the United States. The Contractor grants permission to the Department to contact the Contractor's auditor during the course of the review of required reports.

F.11. Compliance with the audit provisions of this contract is not considered achieved until the Department has reviewed and accepted the report(s). Failure by the Contractor to timely submit a required report may, upon reasonable notice, result in withholding by the Department of payments otherwise due under the terms of this contract.

F.12. The due date of a report may be extended for good cause at the sole discretion of the Department. For an extension to be considered, a request for such must be submitted in writing to the Department's Internal Audit Division at the email address: ProviderAudits@odmhsas.org on or before the applicable due date.

G. Notices

Except for service of process, any notices to be given hereunder are deemed to be given when deposited with the United States Postal Service, certified or registered mail, return receipt requested, with sufficient postage prepaid, addressed as indicated herein. Either party may at any time designate any other address by giving written notice to the other party.

H. Entire Agreement

This contract represents the full and final intent of the parties herein, and supersedes any and all prior agreements/contracts between the parties unless amended, in writing, and approved by the Department. Further, the terms of this contract may not be modified, increased or otherwise amended expressly or implicitly without the written approval of the Department.

I. Interpretation

The headings contained herein are for reference purposes only and shall not affect the meaning or interpretation of this contract.

J. No Grant of Authority

Nothing herein shall be construed as conferring upon Contractor the authority to assume or incur any liability or any obligation of any kind, expressed or implied, in the name of or on behalf of the Department, and Contractor agrees not to assume or incur any such liability or obligation without the prior expressed written consent of the Department.

K. Construction and Enforcement

This contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. Any action brought to enforce the provisions of this contract shall be brought in the District Court of Oklahoma County, State of Oklahoma.

L. No Waiver

Waiver by the Department of any breach of any provision of this contract by Contractor shall not operate or be construed as a waiver of any subsequent breach by Contractor.

M. Severability

If any clause or provision of this contract is illegal, invalid or unenforceable under any present or future law, the remainder of this contract will not be affected thereby. It is the intention of the parties that if any provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible to be legal, valid, and enforceable.

N. Performance Suspension

Performance may be suspended by either party for any act of God, war, riots, fire, explosion, strike, injunction, inability to obtain fuel, power, labor, or transportation, accident, national defense requirements, or any cause beyond the control of such party, which prevents the performance of such party. An alleged breach of this contract by either party shall be grounds for immediate suspension of performance.

O. Non-Discrimination

The Contractor is an Equal Opportunity Employer, a provider of services and/or assistance, and assures compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, Executive Orders 11246 and 11375, and the Americans with Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant to this act.

As applicable, the provisions of Executive Order 11246, as amended by Exec. Order No. 11375, Exec. Order No. 11141, Exec. Order No. 13665 and as supplemented in Department of Labor Regulations (41 CFR Part 60-1.4(a), 60-300.5(a) and 60-741.5(a) et. seq.), are incorporated into this contract and must be included in any subcontracts awarded involving this contract. The parties represent that they are in compliance with all applicable federal and state laws and regulations and all services are provided without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, genetic information, age (40 or older), disability, political beliefs, or status as a veteran in any of their respective policies, practices, or procedures; they do not maintain nor provide for their employees any segregated facilities, nor will the parties permit their employees to perform their services at any location where segregated facilities are maintained. In addition, the parties agree to comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §701 and the Vietnam Era Veteran's Readjustment Assistance Act of 1974, 38 U.S.C.

P. Drug-Free Workplace

The Contractor certifies it will or will continue to provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988 and implemented at 45 CFR Part 76, Subpart F for grantees, as defined at 45 CFR Part 76, Sections 76.605 and 76.610.

Q. Influence

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 45 CFR Part 93, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 45 CFR Part 93, Section 93.105 and 93.110, the Contractor certifies that:

No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or any employee of a member of congress in connection with the making of any federal grant, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal grant or cooperative agreement.

R. Debarment and Suspension

As required by Executive Order 12549, Debarment and Suspension, and implemented at 45 CFR Part 76, for prospective participants in primary covered transactions, as defined at 45 CFR Part 76, Sections 76.105 and 76.110:

R.1. The Contractor certifies that it and its principals:

R.1.a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

R.1.b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.

R.1.c. Are not presently indicted of or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification.

R.1.d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

R.2. Contractor shall notify the Department within ten (10) business days or fifteen (15) calendar days, whichever is shorter, in the event the status of the Contractor or any of its principals meets any of the above listed conditions.

R.3. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this contract.

S. Specialized Services

Contractors shall have policies and procedures for the provision of interpreters for persons who are deaf or hard of hearing or who speak a language other than English.

T. Recognition of Department Support

Contractor shall state it is funded by the Oklahoma Department of Mental Health and Substance Abuse Services in all applicable promotional information (including but not limited to promotional or informational brochures, flyers, newsletters, posters, web sites, multi-media presentations, media releases, and community education presentations) regarding services funded by the Department.

U. Contract Compliance

U.1. The contract may be terminated by the Department immediately and without prior notice if the Department reasonably determines that the health or safety of the persons served are in imminent jeopardy due to the actions or inactions of Contractor or those under Contractor's control.

U.2. A default in performance by Contractor for which the contract may be terminated shall include but is not limited to: failure or refusal to perform, observe, and comply with any covenant or agreement according to its terms, conditions, and specifications, failure to maintain the care and treatment services in accordance with the Department's rules and regulations, and default in payment of state taxes.

U.3. Termination shall not be the exclusive remedy available to the Department for a default by the Contractor, but shall be in addition to any other rights and remedies provided for by law or equity.

U.4. The Department shall not be liable for any further payment to Contractor under a contract terminated for the Contractor's defaults after the date of such default as determined by the Department, except for commodities, supplies, equipment, or services delivered and accepted on or before the date of default and for which payment had not been made as of that date. Contractor shall be liable to, and shall indemnify and hold harmless, the Department for all liability, cost, or damage sustained by the Department as a result of Contractor's default. In the event of a tax lien filed against Contractor, the Department cannot make any payments to Contractor until such tax lien is satisfied.

- U.5.** This contract may be terminated without cause by the Department or the Contractor upon thirty (30) days written notice to the other party.
- U.6.** The Department will monitor the Contractor's performance of this contract. At a minimum, this will include ongoing reviews of certain performance indicators. Contractor shall cooperate with the Department in its monitoring activities and shall comply with Department requests that facilitate such monitoring. Department may conduct eligibility, service verification, and Customer Data Core (CDC) reviews on a random basis. Subsequent payments may be decreased according to the applicable Department rate schedule if ineligible individuals are reported and provided services based on ODMHSAS funding or if service delivery cannot be verified in the client's clinical record.
- U.7.** The Contractor shall have written policy and procedures for internal review of services billed on this contract. The review shall be conducted at least quarterly. Corrective action shall be taken on any deficiencies that are found to exist. The results of the reviews and any associated corrective actions shall be made available to the Department.
- U.8.** The Contractor shall develop and maintain written policy and procedures for ethical billing practices.
- U.9.** The Department can suspend payment if the Contractor does not comply with the terms of the contract.

V. Indemnification

Each party will be responsible for its own negligent acts and omissions as governed by the terms of the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 et seq.

W. Understanding of Terms

The parties hereto have read and fully understand the terms of this contract and agree to be bound by same.

X. Open Meeting Law

If applicable, Contractor shall comply with the provisions of the state's Open Meeting Law.

Y. Confidentiality

The Contractor agrees, through the following terms, to create a Qualified Service Organization/Business Associate Agreement between ODMHSAS and Contractor and:

- Y.1.** Acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received from

ODMHSAS, or from providing services to ODMHSAS, identifying or otherwise relating to the clients or consumers of ODMHSAS (hereinafter “protected information”), it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, 162, and 164, including the HITECH section of the American Recovery and Reinvestment Act (ARRA), and State law at Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this agreement or by law.

- Y.2.** Acknowledges that pursuant to Oklahoma law at 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential; and that such information is available only to persons actively engaged in treatment of the client or consumer or in related administrative work, which includes evaluation.
- Y.3.** Agrees to resist any effort to obtain protected information in judicial proceedings except as expressly provided for in the applicable regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R Part 2, or as otherwise required by other applicable law or court order.
- Y.4.** Agrees to use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of ODMHSAS and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected information.
- Y.5.** Agrees that, when the Contractor uses, discloses, or requests protected health information, that it will limit the use, disclosure, or request to the minimum information necessary.
- Y.6.** Agrees that if the Contractor enters into a contract with any agent, including a subcontractor, the agent will agree to comply with 42 C.F.R. Part 2 and HIPAA, including all provisions of this section, and if the Contractor learns of a pattern or practice by the agent that is a material breach of the confidentiality agreement it will take reasonable steps to cure the breach or terminate the contract if feasible.
- Y.7.** Agrees to report to ODMHSAS any use or disclosure or any security incident involving protected information not provided for by this agreement within twenty-four (24) hours of when it becomes aware of the breach.
- Y.8.** Agrees to provide access to the protected information at the request of ODMHSAS, or to an individual as directed by ODMHSAS, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information; Contractor will comply with time limits as set forth in law.

- Y.9.** Agrees to make any amendments to the protected information as directed or agreed to by ODMHSAS pursuant to 45 C.F.R. §164.526; Contractor will comply with time limits as set forth in law.
- Y.10.** Agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from ODMHSAS or created or received by the Contractor on behalf of ODMHSAS, to ODMHSAS and to the Secretary of the Department of Health and Human Services for purposes of the Secretary determining ODMHSAS' compliance with HIPAA.
- Y.11.** Agrees to provide ODMHSAS, or an individual, information to permit ODMHSAS to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528; Contractor will comply with time limits as set forth in law.
- Y.12.** If Contractor uses an in-house management information system to batch load data to Department's designated site, Contractor must assure the system can provide HIPAA compliant transactions. Department currently collects certain consumer information electronically in addition to the HIPAA required data transactions. These data will continue to be required. All in-house management information systems must be able to provide all ODMHSAS required consumer data or the data must be entered via the Department approved online system.
- Y.13.** Any violation of the terms of this section including the unauthorized use of the MMIS secure website or information on the secure website may result in suspension or termination of Contractor's access to the MMIS secure website and relevant secure websites.
- Y.14.** Upon termination or expiration without renewal of this agreement, Contractor shall return or destroy all protected information received from ODMHSAS, or created or received by Contractor on behalf of ODMHSAS, or if return/destruction is impossible, Contractor shall extend the protections of this agreement to such protected information and limit further uses and disclosures of the information as provided by state and federal law for as long as Contractor maintains the information.

Z. Tobacco

The Contractor will implement and provide a tobacco-free campus in accordance with the standards of the Tobacco-Free Workplace policy of the Oklahoma Department of Mental Health and Substance Abuse Services, ODMHSAS 6.12. Possession and use of any tobacco product including any nicotine delivery product or device that is not approved by the U.S. Food and Drug Administration (FDA) for the purpose of nicotine dependence treatment, including, but not limited to cigarettes, cigars, snuff, chewing tobacco, electronic cigarettes, or vaping devices is prohibited on the grounds of and within ODMHSAS-operated and contracted facilities by employees, consumers, volunteers, and visitors. The Contractor must ensure a site-specific enforcement plan of action for violations related to the agency's tobacco free workplace policy.

All events supported by ODMHSAS contracts should be tobacco free. Events include trainings, special event fundraisers and awareness events, and comparable activity. Contractors should make an effort to communicate the tobacco free campus and event status in signage and other communications associated with the organization or the event. Contractors are also prohibited from accepting financial support from the manufacturers or distributors of tobacco products, their affiliates, or any entity controlling or controlled by such companies.

As part of the ODMHSAS's mission to promote, provide, and support the highest quality of care to its consumers, Contractors shall offer to consumers who use tobacco, cessation assistance while they receive services in any ODMHSAS operated or any contracted facility. The Contractor shall at all times address tobacco use as a treatment issue. Facilities shall develop and implement consumer cessation assistance procedures that minimally include:

- Z.1.** Integrating tobacco cessation treatment into the service plan of consumers who use tobacco, 13 years and older.
- Z.2.** Using the "5 A's" model for treating tobacco use and dependence for consumers 13 years and older or family members who use tobacco: http://www.healthquality.va.gov/tuc/phs_2008_quickguide.pdf.
- Z.3.** Reassessing consumers who are not ready to quit tobacco in at least 6 months.
- Z.4.** Systematically refer 20% of consumers 13 years and older or their family members who use tobacco by means of fax, Web Portal, or Electronic Health Record (EHR) to the Oklahoma Tobacco Helpline.
- Z.5.** Nicotine Replacement Products:
 - Z.5.a.** For inpatient, crisis stabilization, and residential programs, in consultation with the consumer, provide Nicotine Replacement Products (NRT) while consumer is part of program and leverage resources from the Oklahoma Tobacco Helpline, if possible. The physician or other qualified healthcare provider will determine the appropriate nicotine replacement product to be provided and the duration of its use.

The Contractor shall also offer assistance to employees who are tobacco users while he or she is employed by Contractor. This assistance shall consistently include, but is not limited to, the provision of information on the health impact of continued tobacco use, health promotion materials and/or signage, referrals to tobacco cessation programs such as the Oklahoma Tobacco Helpline, the provision of or access to FDA-approved prescription and/or non-prescription medications for the treatment of nicotine dependence when available, the delivery of evidence-based behavioral interventions for tobacco use cessation by clinicians and other healthcare professionals, and provision of appropriate follow-up to facilitate cessation intervention and prevent relapse.

IN WITNESS WHEREOF, this contract, consisting of twenty (20) pages and the attached addenda, attached or referenced hereto, has been executed and delivered effective as of the date first above written.

Electronic signature page will replace this page if applicable.

CONTRACTOR

By: _____
Authorized Representative (Signature)

By: _____
Authorized Representative (Signature)

Printed Name of Authorized Representative

Printed Name of Authorized Representative

Title (Print)

Title (Print)

Please place corporate seal in above space if corporation

STATE OF OKLAHOMA--OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES, 2000 N. Classen Blvd., Suite 2-600, Oklahoma City, Oklahoma, 73106, an agency of the State of Oklahoma.

By: _____
Carrie Slatton-Hodges
Commissioner

By: _____
Durand Crosby
Chief of Staff and Operations

Attest:

Attest:

FEDERAL FUNDING IDENTIFICATION FORM

Your contract contains the Following Federal Funding:

CFDA TITLE: Mental Health Disaster Assistance and Emergency Mental Health
CFDA NUMBER: 93.982
AWARD NAME: Embrace OK
GRANT NUMBER/FAIN: H79FG000625
FEDERAL AGENCY: Department of Health and Human Services. SAMHSA
OTHER INFORMATION _____

Identified as: Vendor Subrecipient

Special Terms and Conditions: None beyond requirements listed in the statement of work.