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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lori A. Weaver  
Commissioner

Melissa A. Hardy  
Director

105 PLEASANT STREET, CONCORD, NH 03301  
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August 4, 2023

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Division of Long Term Supports and Services, to enter into a **Sole Source** contract with County of Strafford (VC#177478-B009), Dover, NH, in the amount of \$350,000 to increase capacity to provide long-term care for individuals with mental health/behavioral health care needs who require nursing home level of care, with the option to renew for up to one (1) additional year, effective September 1, 2023, upon Governor and Council approval, through December 31, 2029. 100% Federal Funds (ARPA).

Funds are available in the following account for State Fiscal Years 2024 and 2025, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

**05-95-94-940010-24650000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, ARPA DHHS FISCAL RECOVERY FUNDS**

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2024	102-500731	Contracts for Program Services	00FRF602PH 9501B	\$210,000
2025	102-500731	Contracts for Program Services	00FRF602PH 9501B	\$140,000
			<b>Total</b>	<b>\$350,000</b>

**EXPLANATION**

This request is **Sole Source** because there are no known viable alternatives to the services provided by the Contractor. The Department issued a Request for Grant Applications that was posted on the Department's website from February 17, 2023 through June 1, 2023 in order to solicit services to increase long-term care capacity for individuals with mental health/behavioral health care needs. The Department's goal was to receive applications from both nursing facilities and assisted living facilities. The Department received two (2) responses from assisted living facilities, and the Department anticipates presenting these two (2) agreements to the Governor and Executive Council at a later date. The Department has since identified the Contractor, County of Strafford, as a qualified nursing home capable of increasing capacity in order to assist the Department with ensuring the appropriate level of long-term mental health/behavioral health care services for this population.

The purpose of this request is to increase capacity to provide long-term care for individuals with mental/behavioral health care needs who require and meet nursing home level of care by ensuring up to sixteen beds are available by December 31, 2024.

At any one time, approximately 16 individuals will be served annually.

Individuals with mental health/behavioral health care needs who require nursing home level of care will be served, with priority referrals as determined by the Department, including from transitional housing providers, community mental health centers and New Hampshire Hospital. By building, developing and expanding access to services in the least restrictive environment for those requiring nursing home level of care as well as long-term mental health/behavioral health services, the Department will ensure these intensive needs are met in the least restrictive environment while reducing waitlists for appropriate placements along other parts of the continuum.

The Contractor will ensure up to sixteen beds are available by December 31, 2024 and remain available through December 31, 2029. Additionally, the Contractor will develop individualized treatment plans that include transition plans to a less-restrictive setting as resident's stability and independence increases. The Contractor will also work with other county nursing facilities by providing technical assistance to increase their capacity to support this population, to provide access for this level of care in other parts of the state and closer to an individual's community, their families, and friends.

The Department will monitor services by reviewing the quarterly reports submitted by the Contractor.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, of the attached agreement, the parties have the option to extend the agreement for up one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval.

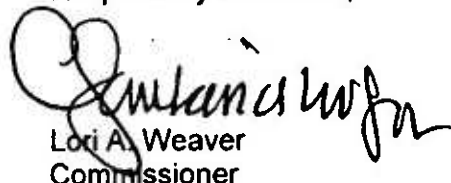
Should the Governor and Council not authorize this request, the capacity to provide long-term care to individuals with mental health/behavioral health care needs who require nursing home level of care will remain stagnant; resulting in fewer available beds, and individuals receiving services in more restrictive and costly settings long term.

Area served: Statewide.

Source of Funds: Assistant Listing Number: 21.027.

In the event that the Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Lori A. Weaver  
Commissioner

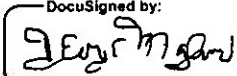
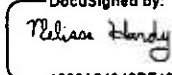
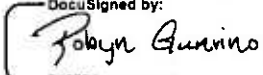
Subject: Behavioral Health Long-Term Care Beds (SS-2024-DLTSS-03-BEHAV-01)

**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS****1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name County of Strafford		1.4 Contractor Address 259 County Farm Road, Suite 204 Dover, NH 03820	
1.5 Contractor Phone Number (603) 516-7102	1.6 Account Unit and Class 010-094-24650000-500731	1.7 Completion Date December 31, 2029	1.8 Price Limitation \$350,000
1.9 Contracting Officer for State Agency Robert W. Moore, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature DocuSigned by:  Date: 8/3/2023		1.12 Name and Title of Contractor Signatory George Maglaras Chairman	
1.13 State Agency Signature DocuSigned by:  Date: 8/3/2023		1.14 Name and Title of State Agency Signatory Melissa Hardy Director, DLTSS	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 8/4/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			



**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

**9. TERMINATION.**

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

**10. PROPERTY OWNERSHIP/DISCLOSURE.**

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulac, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.



**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
**EXHIBIT A**

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**Revisions to Standard Agreement Provisions**

1. Revisions to Form P-37, General Provisions

- 1.1. Paragraph 3, Subparagraph 3.1, Effective Date/Completion of Services, is amended as follows:
  - 3.1. Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall become effective on September 1, 2023, upon Governor and Council approval ("Effective Date").
- 1.2. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:
  - 3.3. The parties may extend the Agreement for up to one (1) additional year from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.
- 1.3. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.5 as follows:
  - 12.5. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed, and if applicable, a Business Associate Agreement in accordance with the Health Insurance Portability and Accountability Act. Written agreements shall specify how corrective action shall be managed. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

**Scope of Services**

**1. Statement of Work**

**1.1. Behavioral Health Long-Term Care Bed Capacity Expansion**

1.1.1. The Contractor must make sixteen additional beds available at the Riverside Rest Home by December 31, 2024, to increase capacity to provide long-term care for individuals with mental health/behavioral health care needs and who require nursing home level of care, by:

1.1.1.1. Recruiting, hiring, onboarding and maintaining appropriate behavioral health and housekeeping staff;

1.1.1.2. Conducting necessary staff training;

1.1.1.3. Purchasing necessary furniture and equipment; and

1.1.1.4. Purchasing necessary supplies.

1.1.2. The Contractor must provide technical assistance and capacity building by collaborating with two (2) county nursing facilities to increase their ability to meet the behavioral health care needs of their current and/or prospective residents.

1.1.3. The Contractor must provide the Department with a detailed work plan within 30 days of the contract effective date, which must include how the Contractor will increase capacity, including goals, milestones expected, and anticipated outcomes.

**1.2. Behavioral Health Long-Term Care Services**

1.2.1. The Contractor shall be solely responsible for any costs associated with the provision of behavioral health long-term care services to individuals.

1.2.2. The Contractor must utilize the beds exclusively for long-term care for individuals with mental health/behavioral health care needs and who require nursing home level of care, unless otherwise mutually agreed upon by the parties in writing, through December 31, 2029.

1.2.2.1. If, during the course of their stay, an individual requires care at another health care facility for any reason, the Contractor must hold the bed for the individual for the duration of the individual's necessary assessment and treatment. For any length of day longer than forty-five days, the Contractor must confer with the Department before reassigning the bed.

1.2.2.2. For each individual served, the Contractor must ensure individualized treatment plans include a transition plan to a least restrictive setting, which will be reviewed initially within six months of admission and annually thereafter.



**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

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- 1.2.3. The Contractor must prioritize available beds for individuals as follows:
  - 1.2.3.1. Individuals from New Hampshire Hospital who are not currently on the Glenclyff waitlist;
  - 1.2.3.2. Individuals referred from community-based providers, including community mental health centers, and transitional housing providers; and
  - 1.2.3.3. Individuals referred from the Department.
- 1.2.4. The Contactor must increase its capacity to serve the individuals in Subsection 1.2.3. by providing the following services, which include but are not limited to:
  - 1.2.4.1. Developing, expanding, and providing the mental health/behavioral services, including psychiatric, behavioral, therapy, medication for substance use disorder, and telehealth.
  - 1.2.4.2. Developing behavior plans, as required.
  - 1.2.4.3. Developing a setting that supports the individual's needs to be successful in the facility.
  - 1.2.4.4. Ensuring a team-based staffing approach that supports the needs of the individuals, including, but not limited to the expertise of a behaviorist, social worker, and geriatric psychiatrist on all cases.
  - 1.2.4.5. Increasing targeted staff development.
  - 1.2.4.6. Providing infrastructure and technology development, as needed, to support a balance of structure, safety, and supports that yield a highly normalized therapeutic setting.

**1.3. Reporting**

- 1.3.1. The Contractor must submit quarterly reports to ensure progress towards work plan goals, including, but not limited to:
  - 1.3.1.1. Numbers of individuals admitted and from where.
  - 1.3.1.2. Numbers of individuals discharged and to where.
  - 1.3.1.3. Number of individuals transferred out of the unit and to where.
- 1.3.2. The Contractor may be required to provide other key data and metrics to the Department in a format specified by the Department.

**1.4. Background Checks**

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

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- 1.4.1. Prior to permitting any individual to provide services under this Agreement, the Contractor must ensure that said individual has undergone:
  - 1.4.1.1. A criminal background check, at the Contractor's expense, and has no convictions for crimes that represent evidence of behavior that could endanger individuals served under this Agreement;
  - 1.4.1.2. A name search of the Department's Bureau of Elderly and Adult Services (BEAS) State Registry, pursuant to RSA 161-F:49, with results indicating no evidence of behavior that could endanger individuals served under this Agreement; and
  - 1.4.1.3. A name search of the Department's Division for Children, Youth and Families (DCYF) Central Registry pursuant to RSA 169-C:35, with results indicating no evidence of behavior that could endanger individuals served under this Agreement.

1.5. Confidential Data

- 1.5.1. The Contractor must meet all information security and privacy requirements as set by the Department and in accordance with the Department's Information Security Requirements Exhibit as referenced below.
- 1.5.2. The Contractor must ensure any individuals involved in delivering services through the resulting contract sign an attestation agreeing to access, view, store, and discuss Confidential Data in accordance with federal and state laws and regulations and the Department's Information Security Requirements Exhibit. The Contractor must ensure said individuals have a justifiable business need to access confidential data. The Contractor must provide attestations upon Department request.

1.6. Privacy Impact Assessment

- 1.6.1. Upon request, the Contractor must allow and assist the Department in conducting a Privacy Impact Assessment (PIA) of its system(s)/application(s)/web portal(s)/website(s) or Department system(s)/application(s)/web portal(s)/website(s) hosted by the Contractor, if Personally Identifiable Information (PII) is collected, used, accessed, shared, or stored. To conduct the PIA the Contractor must provide the Department access to applicable systems and documentation sufficient to allow the Department to assess, at minimum, the following:

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

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- 1.6.1.1. How PII is gathered and stored;
  - 1.6.1.2. Who will have access to PII;
  - 1.6.1.3. How PII will be used in the system;
  - 1.6.1.4. How individual consent will be achieved and revoked;  
and
  - 1.6.1.5. Privacy practices.
- 1.6.2. The Department may conduct follow-up PIAs in the event there are either significant process changes or new technologies impacting the collection, processing or storage of PII.

**2. Exhibits Incorporated**

- 2.1. The Contractor must comply with all Exhibit D Federal Requirements, which are attached hereto and incorporated by reference herein.
- 2.2. The Contractor must manage all confidential data related to this Agreement in accordance with the terms of Exhibit E, DHHS Information Security Requirements.
- 2.3. The Contractor must use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and in accordance with the attached Exhibit F, Business Associate Agreement, which has been executed by the parties.

**3. Additional Terms**

**3.1. Impacts Resulting from Court Orders or Legislative Changes**

- 3.1.1. The Contractor agrees that, to the extent future state or federal legislation or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.

**3.2. Federal Civil Rights Laws Compliance: Culturally and Linguistically Appropriate Programs and Services**

- 3.2.1. The Contractor must submit, within ten (10) days of the Agreement Effective Date, a detailed description of the communication access and language assistance services to be provided to ensure meaningful access to programs and/or services to individuals with limited English proficiency; individuals who are deaf or have hearing loss; individuals who are blind or have low vision; and individuals who have speech challenges.

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

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**3.3. Credits and Copyright Ownership**

- 3.3.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Agreement must include the following statement, "The preparation of this (report, document etc.) was financed under an Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services."
- 3.3.2. All materials produced or purchased under the Agreement must have prior approval from the Department before printing, production, distribution or use.
- 3.3.3. The Department must retain copyright ownership for any and all original materials produced, including, but not limited to:
  - 3.3.3.1. Brochures.
  - 3.3.3.2. Resource directories.
  - 3.3.3.3. Protocols or guidelines.
  - 3.3.3.4. Posters.
  - 3.3.3.5. Reports.
- 3.3.4. The Contractor must not reproduce any materials produced under the Agreement without prior written approval from the Department.

**3.4. Operation of Facilities: Compliance with Laws and Regulations**

- 3.4.1. In the operation of any facilities for providing services, the Contractor must comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which must impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit must be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Agreement the facilities must comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and must be in conformance with local building and zoning codes, by-laws and regulations.

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT B**

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**4. Records**

- 4.1. The Contractor must keep records that include, but are not limited to:
- 4.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor.
  - 4.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
  - 4.1.3. Medical records on each patient/recipient of services.
- 4.2. During the term of this Agreement and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives must have access to all reports and records maintained pursuant to the Agreement for purposes of audit, examination, excerpts and transcripts.
- 4.3. If, upon review of the Final Expenditure Report the Department must disallow any expenses claimed by the Contractor as costs hereunder, the Department retains the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT C**

**Payment Terms**

1. This Agreement is funded by 100% Federal funds, American Rescue Plan Act (ARPA) State Fiscal Recovery Funds, as awarded on April 1, 2022, by the U.S. Department of Treasury, American Rescue Plan Act State Fiscal Recovery Funds, ALN 21.027
2. For the purposes of this Agreement the Department has identified:
  - 2.1. The Contractor as a Subrecipient, in accordance with 2 CFR 200.331.
  - 2.2. The Agreement as NON-R&D, in accordance with 2 CFR §200.332.
3. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, and shall be in accordance with the approved line items, as specified in Exhibit C-1, Budget through Exhibit C-2, Budget, and as follows:
  - 3.1. Funds for financial obligations incurred or obligated during this period must be expended by December 31, 2024.
  - 3.2. The Department shall not reimburse the Contractor for any costs associated with the provision of behavioral health long-term care services to individuals.
4. The Department may recoup payments made under this Agreement, in whole or in part, in the event of an Event of Default that is not timely cured in accordance with Paragraph 8 of the P-37 General Provisions.
5. The Contractor shall submit an invoice with supporting documentation to the Department no later than the fifteenth (15th) working day of the month following the month in which the services were provided. The Contractor shall ensure each invoice:
  - 5.1. Includes the Contractor's Vendor Number issued upon registering with New Hampshire Department of Administrative Services.
  - 5.2. Is submitted in a form that is provided by or otherwise acceptable to the Department.
  - 5.3. Identifies and requests payment for allowable costs incurred in the previous month.
  - 5.4. Includes supporting documentation of allowable costs with each invoice that may include, but are not limited to, time sheets, payroll records, receipts for purchases, and proof of expenditures, as applicable.
  - 5.5. Is completed, dated and returned to the Department with the supporting documentation for allowable expenses to initiate payment.
  - 5.6. Is assigned an electronic signature, includes supporting documentation, and is emailed to [dhhs.beasinvoices@dhhs.nh.gov](mailto:dhhs.beasinvoices@dhhs.nh.gov) or mailed to:

os  
GM



**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT C**

Program Manager  
Department of Health and Human Services  
105 Pleasant Street  
Concord, NH 03301

6. The Department shall make payments to the Contractor within thirty (30) days of receipt of each invoice and supporting documentation for authorized expenses, subsequent to approval of the submitted invoice.
7. The final invoice and supporting documentation for authorized expenses shall be due to the Department no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
8. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.
9. Audits
  - 9.1. The Contractor must email an annual audit to [dhhs.act@dhhs.nh.gov](mailto:dhhs.act@dhhs.nh.gov) if any of the following conditions exist:
    - 9.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.
    - 9.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
    - 9.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
  - 9.2. If Condition A exists, the Contractor shall submit an annual Single Audit performed by an independent Certified Public Accountant (CPA) to [dhhs.act@dhhs.nh.gov](mailto:dhhs.act@dhhs.nh.gov) within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.
    - 9.2.1. The Contractor shall submit a copy of any Single Audit findings and any associated corrective action plans. The Contractor shall submit quarterly progress reports on the status of implementation of the corrective action plan.

<sup>DS</sup>  
GM

**New Hampshire Department of Health and Human Services  
Behavioral Health Long-Term Care Beds  
EXHIBIT C**

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- 9.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.
- 9.4. In addition to, and not in any way in limitation of obligations of the Agreement, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department all payments made under the Agreement to which exception has been taken, or which have been disallowed because of such an exception.

DS  
GM

## Exhibit C-1 Budget

New Hampshire Department of Health and Human Services	
<b>Contractor Name:</b>	County of Strafford
<b>Budget Request for:</b>	Behavioral Health Long-Term Care Beds
<b>Budget Period</b>	September 1, 2023 through June 30, 2024 (SFY2024)
<b>Indirect Cost Rate (if applicable)</b>	
Line Item	Program Cost - Funded by DHHS
1. Salary & Wages	\$3,028
2. Fringe Benefits	\$715
3. Consultants	\$0
4. Equipment Indirect cost rate cannot be applied to equipment costs per 2 CFR 200.1 and Appendix IV to 2 CFR 200.	\$131,258
5.(a) Supplies - Educational	\$0
5.(b) Supplies - Lab	\$0
5.(c) Supplies - Pharmacy	\$0
5.(d) Supplies - Medical	\$40,000
5.(e) Supplies Office	\$6,000
6. Travel	\$0
7. Software	\$0
8. (a) Other - Marketing/ Communications	\$2,000
8. (b) Other - Education and Training	\$10,000
8. (c) Other - Other (specify below)	\$5,000
Other (please specify)	\$5,000
Other (please specify)	\$7,000
Other (please specify)	\$0
Other (please specify)	\$0
9. Subrecipient Contracts	\$0
Total Direct Costs	\$210,000
Total Indirect Costs	\$0
<b>TOTAL</b>	<b>\$210,000</b>

Contractor Initial:



## Exhibit C-2 Budget

New Hampshire Department of Health and Human Services	
<b>Contractor Name:</b>	County of Strafford
<b>Budget Request for:</b>	Behavioral Health Long-Term Care Beds
<b>Budget Period</b>	July 1, 2024 through December 31, 2024 (SFY2025)
<b>Indirect Cost Rate (if applicable)</b>	
Line Item	Program Cost - Funded by DHHS
1. Salary & Wages	\$505
2. Fringe Benefits	\$119
3. Consultants	\$0
4. Equipment Indirect cost rate cannot be applied to equipment costs per 2 CFR 200.1 and Appendix IV to 2 CFR 200.	\$112,376
5.(a) Supplies - Educational	\$0
5.(b) Supplies - Lab	\$0
5.(c) Supplies - Pharmacy	\$0
5.(d) Supplies - Medical	\$10,000
5.(e) Supplies Office	\$3,000
6. Travel	\$0
7. Software	\$0
8. (a) Other - Marketing/ Communications	\$0
8. (b) Other - Education and Training	\$10,000
8. (c) Other - Other (specify below)	\$1,000
Other (please specify)	\$1,000
Other (please specify)	\$1,000
Other (please specify)	\$1,000
Other (please specify)	\$0
9. Subrecipient Contracts	\$0
Total Direct Costs	\$140,000
Total Indirect Costs	\$0
<b>TOTAL</b>	<b>\$140,000</b>

Contractor Initial:



# New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

## SECTION A: CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

### ALTERNATIVE I - FOR CONTRACTORS OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS  
US DEPARTMENT OF EDUCATION - CONTRACTORS  
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by contractors (and by inference, sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a contractor (and by inference, sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each Agreement during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the Agreement. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of Agreements, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner  
NH Department of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301-6505

1. The Contractor certifies that it will or will continue to provide a drug-free workplace by:
  - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
    - 1.2.1. The dangers of drug abuse in the workplace;
    - 1.2.2. The Contractor's policy of maintaining a drug-free workplace;
    - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - 1.3. Making it a requirement that each employee to be engaged in the performance of the Agreement be given a copy of the statement required by paragraph (a);
  - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Agreement, the employee will
    - 1.4.1. Abide by the terms of the statement; and
    - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every contract officer on whose contract activity the convicted employee was working, unless the Federal

## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

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agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected Agreement;

1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted

1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific Agreement.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check  if there are workplaces on file that are not identified here.



# New Hampshire Department of Health and Human Services

## Exhibit D – Federal Requirements

### SECTION B: CERTIFICATION REGARDING LOBBYING

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES – CONTRACTORS  
US DEPARTMENT OF EDUCATION - CONTRACTORS  
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):

- \*Temporary Assistance to Needy Families under Title IV-A
- \*Child Support Enforcement Program under Title IV-D
- \*Social Services Block Grant Program under Title XX
- \*Medicaid Program under Title XIX
- \*Community Services Block Grant under Title VI
- \*Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, loan, or cooperative agreement (and by specific mention sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid 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 an employee of a Member of Congress in connection with this Federal contract, loan, or cooperative agreement (and by specific mention sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, see <https://omb.report/icr/201009-0348-022/doc/20388401>
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

# New Hampshire Department of Health and Human Services

## Exhibit D – Federal Requirements

### SECTION C: CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

#### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this Agreement, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this Agreement is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See <https://www.govinfo.gov/app/details/CFR-2004-title45-vol1/CFR-2004-title45-vol1-part76/context>.
6. The prospective primary participant agrees by submitting this Agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties) <sup>os</sup> <https://www.ecfr.gov/current/title-22/chapter-V/part-513>.

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Exhibit D  
Federal Requirements

Contractor's Initials GM  
Date 8/3/2023

## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

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9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

### PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - 11.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - 11.2. Have not within a three-year period preceding this proposal (Agreement) 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 a 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;
  - 11.3. Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and
  - 11.4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

### LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (Agreement), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
  - 13.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  - 13.2. Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (Agreement).
14. The prospective lower tier participant further agrees by submitting this proposal (Agreement) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

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### SECTION D: CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS, WHISTLEBLOWER PROTECTIONS, CLEAN AIR AND CLEAN WATER ACT

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Contractor will comply, and will require any subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

1. The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
2. The Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
3. The Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
4. The Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
5. The Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
6. The Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
7. The Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
8. 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
9. 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) <sup>the Pilot</sup>

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Exhibit D  
Federal Requirements

Contractor's Initials GAN  
Date 8/3/2023

## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

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Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

10. The Clean Air Act (42 U.S.C. 7401-7671q.) which seeks to protect human health and the environment from emissions that pollute ambient, or outdoor, air.

11. The Clean Water Act (33 U.S.C. 1251-1387) which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the Agreement. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of Agreements, or government wide suspension or debarment.

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this Agreement, the Contractor agrees to comply with the provisions indicated above.

## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

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### SECTION E: CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this Agreement, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.



## New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

### SECTION F: CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than \$30,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$30,000 or more. If the initial award is below \$30,000 but subsequent grant modifications result in a total award equal to or over \$30,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any sub award or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique Entity Identifier (SAM UEI; DUNS#)
10. Total compensation and names of the top five executives if:
  - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually and
  - 10.2. Compensation information is not already available through reporting to the SEC.  
Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

# New Hampshire Department of Health and Human Services Exhibit D – Federal Requirements

## FORM A

As the Grantee identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The UEI (SAM.gov) number for your entity is: YH2ABMMH7M4
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

NO  YES

If the answer to #2 above is NO, stop here  
If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

NO  YES

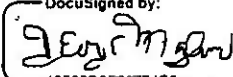
If the answer to #3 above is YES, stop here  
If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

Name: <u>George Maglaras</u>	Amount: <u>0.00</u>
Name: <u>George Maglaras</u>	Amount: <u>0.00</u>
Name: <u>George Maglaras</u>	Amount: <u>0.00</u>
Name: <u>George Maglaras</u>	Amount: <u>0.00</u>
Name: <u>George Maglaras</u>	Amount: <u>0.00</u>

Contractor Name: Strafford County

8/3/2023  
Date:

DocuSigned by:  
  
Name: George Maglaras  
Title: Chairman

**New Hampshire Department of Health and Human Services****Exhibit E****DHHS Information Security Requirements**

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**A. Definitions**

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.
3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss

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## New Hampshire Department of Health and Human Services

### Exhibit E

### DHHS Information Security Requirements

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or misplacement of hardcopy documents, and misrouting of physical or electronic mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.
8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual; such as date and place of birth, mother's maiden name, etc.
9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.
11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

#### I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

##### A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

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## New Hampshire Department of Health and Human Services

### Exhibit E

### DHHS Information Security Requirements

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2. The Contractor must not disclose any Confidential Information in response to a request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.
3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

#### II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.

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## New Hampshire Department of Health and Human Services

### Exhibit E

#### DHHS Information Security Requirements

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8. Open Wireless Networks. End User may not transmit Confidential Data via an open wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.
9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

### III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

#### A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, antihacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, must have aggressive intrusion-detection and firewall protection.

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## New Hampshire Department of Health and Human Services

### Exhibit E

#### DHHS Information Security Requirements

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6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

#### B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

#### IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:
  1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
  2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

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## New Hampshire Department of Health and Human Services

### Exhibit E

### DHHS Information Security Requirements

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3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.
8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.
10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.
11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent

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### Exhibit E

#### DHHS Information Security Requirements

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future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.
13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doi/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.
15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.
16. The Contractor must ensure that all End Users:
  - a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.
  - b. safeguard this information at all times.
  - c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.

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#### DHHS Information Security Requirements

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- d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
- e. limit disclosure of the Confidential Information to the extent permitted by law.
- f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).
- g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.
- h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.
- i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

#### V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;

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### DHHS Information Security Requirements

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4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and
5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

#### VI. PERSONS TO CONTACT

##### A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov B.

##### DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov

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New Hampshire Department of Health and Human Services

Exhibit F

BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement (Form P-37) ("Agreement"), and any of its agents who receive use or have access to protected health information (PHI), as defined herein, shall be referred to as the "Business Associate." The State of New Hampshire, Department of Health and Human Services, "Department" shall be referred to as the "Covered Entity," The Contractor and the Department are collectively referred to as "the parties."

The parties agree, to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191, the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162, and 164 (HIPAA), provisions of the HITECH Act, Title XIII, Subtitle D, Parts 1&2 of the American Recovery and Reinvestment Act of 2009, 42 USC 17934, et sec., applicable to business associates, and as applicable, to be bound by the provisions of the Confidentiality of Substance Use Disorder Patient Records, 42 USC s. 290 dd-2, 42 CFR Part 2, (Part 2), as any of these laws and regulations may be amended from time to time.

(1) Definitions.

a. The following terms shall have the same meaning as defined in HIPAA, the HITECH Act, and Part 2, as they may be amended from time to time:

"Breach," "Designated Record Set," "Data Aggregation," "Designated Record Set," "Health Care Operations," "HITECH Act," "Individual," "Privacy Rule," "Required by law," "Security Rule," and "Secretary."

b. Business Associate Agreement, (BAA) means the Business Associate Agreement that includes privacy and confidentiality requirements of the Business Associate working with PHI and as applicable, Part 2 record(s) on behalf of the Covered Entity under the Agreement.

c. "Constructively Identifiable," means there is a reasonable basis to believe that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information.

d. "Protected Health Information" ("PHI") as used in the Agreement and the BAA, means protected health information defined in HIPAA 45 CFR 160.103, limited to the information created, received, or used by Business Associate from or on behalf of Covered Entity, and includes any Part 2 records, if applicable, as defined below.

e. "Part 2 record" means any patient "Record," relating to a "Patient," and "Patient Identifying Information," as defined in 42 CFR Part 2.11.

f. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) Business Associate Use and Disclosure of Protected Health Information.

a. Business Associate shall not use, disclose, maintain, store, or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under the Agreement. Further, Business Associate, including but not limited to all its directors,

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Exhibit F

officers, employees, and agents, shall protect any PHI as required by HIPAA and 42 CFR Part 2, and not use, disclose, maintain, store, or transmit PHI in any manner that would constitute a violation of HIPAA or 42 CFR Part 2.

- b. Business Associate may use or disclose PHI, as applicable:
  - I. For the proper management and administration of the Business Associate;
  - II. As required by law, according to the terms set forth in paragraph c. and d. below;
  - III. According to the HIPAA minimum necessary standard;
  - IV. For data aggregation purposes for the health care operations of the Covered Entity; and
  - V. Data that is de-identified or aggregated and remains constructively identifiable may not be used for any purpose outside the performance of the Agreement.
- c. To the extent Business Associate is permitted under the BAA or the Agreement to disclose PHI to any third party or subcontractor prior to making any disclosure, the Business Associate must obtain, a business associate agreement with the third party or subcontractor, that complies with HIPAA and ensures that all requirements and restrictions placed on the Business Associate as part of this BAA with the Covered Entity, are included in those business associate agreements with the third party or subcontractor.
- d. The Business Associate shall not, disclose any PHI in response to a request or demand for disclosure, such as by a subpoena or court order, on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity can determine how to best protect the PHI. If Covered Entity objects to the disclosure, the Business Associate agrees to refrain from disclosing the PHI and shall cooperate with the Covered Entity in any effort the Covered Entity undertakes to contest the request for disclosure, subpoena, or other legal process. If applicable relating to Part 2 records, the Business Associate shall resist any efforts to access part 2 records in any judicial proceeding.

(3) Obligations and Activities of Business Associate.

- a. Business Associate shall implement appropriate safeguards to prevent unauthorized use or disclosure of all PHI in accordance with HIPAA Privacy Rule and Security Rule with regard to electronic PHI, and Part 2, as applicable.
- b. The Business Associate shall immediately notify the Covered Entity's Privacy Officer at the following email address, [DHSPrivacyOfficer@dhhs.nh.gov](mailto:DHSPrivacyOfficer@dhhs.nh.gov) after the Business Associate has determined that any use or disclosure not provided for by its contract, including any known or suspected privacy or security incident or breach has occurred potentially exposing or compromising the PHI. This includes inadvertent or accidental uses or disclosures or breaches of unsecured protected health information.
- c. In the event of a breach, the Business Associate shall comply with the terms of this Business Associate Agreement, all applicable state and federal laws and regulations and any additional requirements of the Agreement.
- d. The Business Associate shall perform a risk assessment, based on the information available at the time it becomes aware of any known or suspected privacy or security breach as described above and communicate the risk assessment to the Covered Entity. The risk assessment shall include, but not be limited to:
  - I. The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;

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- II. The unauthorized person who accessed, used, disclosed, or received the protected health information;
  - III. Whether the protected health information was actually acquired or viewed; and
  - IV. How the risk of loss of confidentiality to the protected health information has been mitigated.
- e. The Business Associate shall complete a risk assessment report at the conclusion of its incident or breach investigation and provide the findings in a written report to the Covered Entity as soon as practicable after the conclusion of the Business Associate's investigation.
  - f. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the US Secretary of Health and Human Services for purposes of determining the Business Associate's and the Covered Entity's compliance with HIPAA and the Privacy and Security Rule, and Part 2, if applicable.
  - g. Business Associate shall require all of its business associates that receive, use or have access to PHI under the BAA to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein and an agreement that the Covered Entity shall be considered a direct third party beneficiary of all the Business Associate's business associate agreements.
  - h. Within ten (10) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the BAA and the Agreement.
  - i. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
  - j. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
  - k. Business Associate shall document any disclosures of PHI and information related to any disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
  - l. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
  - m. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within five (5)

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## New Hampshire Department of Health and Human Services

## Exhibit F

business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

- n. Within thirty (30) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-ups of such PHI in any form or platform.
- i. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, or if retention is governed by state or federal law, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for as long as the Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

Covered Entity shall post a current version of the Notice of the Privacy Practices on the Covered Entity's website: <https://www.dhhs.nh.gov/oos/hipaa/publications.htm> in accordance with 45 CFR Section 164.520.

- a. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this BAA, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- b. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination of Agreement for Cause

In addition to the General Provisions (P-37) of the Agreement, the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a material breach by Business Associate of the Business Associate Agreement. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity.

(6) Miscellaneous

- a. Definitions, Laws, and Regulatory References. All laws and regulations used, herein, shall refer to those laws and regulations as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in HIPAA or 42 Part 2, means the Section as in effect or as amended.
- b. Change in law. Covered Entity and Business Associate agree to take such action as is necessary from time to time for the Covered Entity and/or Business Associate to

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New Hampshire Department of Health and Human Services

Exhibit F

comply with the changes in the requirements of HIPAA, 42 CFR Part 2 other applicable federal and state law.

- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the BAA and the Agreement shall be resolved to permit Covered Entity and the Business Associate to comply with HIPAA and 42 CFR Part 2.
- e. Segregation. If any term or condition of this BAA or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this BAA are declared severable.
- f. Survival. Provisions in this BAA regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the BAA in section (3) n.l., the defense and indemnification provisions of section (3) g. and Paragraph 13 of the General Provisions (P-37) of the Agreement, shall survive the termination of the BAA.

IN WITNESS WHEREOF, the parties hereto have duly executed this Business Associate Agreement.

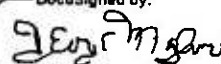
Department of Health and Human Services

Stafford County

The State

Name of the Contractor

DocuSigned by:  
  
 1323A24040DP493...

DocuSigned by:  
  
 435690312677482...

Signature of Authorized Representative

Signature of Authorized Representative

Melissa Hardy

George Maglaras

Name of Authorized Representative

Name of Authorized Representative

Director, DLTSS

Chairman

Title of Authorized Representative

Title of Authorized Representative

8/3/2023

8/3/2023

Date

Date

Exhibit F

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**COMMISSIONERS**  
GEORGE MAGLARAS, *Chairman*  
ROBERT J. WATSON, *Vice Chairman*  
DEANNA S. ROLLO, *Clerk*

**TREASURER**  
PAMELA J. ARNOLD

**COUNTY ADMINISTRATOR**  
RAYMOND F. BOWER

# STRAFFORD COUNTY COMMISSIONERS

WILLIAM A. GRIMES  
Justice & Administration Building  
259 County Farm Road, Suite 204  
Dover, New Hampshire 03820  
Telephone: (603)742-1458  
Fax: (603) 743-4407



## CERTIFICATE OF AUTHORITY

I, Deanna S. Rollo, Clerk of Strafford County, New Hampshire do hereby certify that: (1) at the public meeting held on August 3, 2023, the County Commissioners voted to (1) Accept funds and enter into an agreement with the State of New Hampshire Department of Health and Human Services, and (2) further authorize the Chairman, Board of Commissioners to execute any documents which may be necessary to effectuate this contract and any amendments thereto; (3) I further certify that this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (4) the following person now occupies the office indicated under item (2) above:

George Maglaras, Chairman, Strafford County Commissioners  
Name and Title of Officer Authorized to Sign

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk of Strafford County, New Hampshire this 3rd day of August 2023.

Deanna S. Rollo, Clerk

STATE OF NEW HAMPSHIRE  
COUNTY OF STRAFFORD

On this 3rd day of August 2023, before me Janet Hilber, the undersigned officer, personally appeared Deanna S. Rollo, who acknowledged their self to be the Clerk for the Strafford County Board of Commissioners, being authorized to do so, executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my and official seal.



Notary Public  
Commission Expiration Date: 9/5/2023



**CERTIFICATE OF COVERAGE**

The New Hampshire Public Risk Management Exchange (Primex<sup>3</sup>) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex<sup>3</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>3</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>3</sup> may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex<sup>3</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>3</sup> Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex<sup>3</sup>. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

<b>Participating Member:</b> Strafford County 259 County Farm Road Dover, NH 03820		<b>Member Number:</b> 605	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> Bow Brook Place 46 Donovan Street Concord, NH 03301-2624		
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply If Not		
<input checked="" type="checkbox"/> <b>General Liability (Occurrence Form)</b> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	1/1/2023	1/1/2024	Each Occurrence	\$ 5,000,000	
			General Aggregate	\$ 5,000,000	
			Fire Damage (Any one fire)		
			Med Exp (Any one person)		
<input checked="" type="checkbox"/> <b>Automobile Liability</b> Deductible    Comp and Coll: <input type="checkbox"/> Any auto	1/1/2023	1/1/2024	Combined Single Limit (Each Accident)	\$5,000,000	
			Aggregate	\$5,000,000	
<input checked="" type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>	1/1/2023	1/1/2024	<input checked="" type="checkbox"/> Statutory	\$2,000,000	
			Each Accident	\$2,000,000	
			Disease - Each Employee		
			Disease - Policy Limit		
<input checked="" type="checkbox"/> <b>Property (Special Risk includes Fire and Theft)</b>	1/1/2023	1/1/2024	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000	
<b>Description:</b> Proof of Primex Member coverage only.					

<b>CERTIFICATE HOLDER:</b>	<b>Additional Covered Party</b>	<b>Loss Payee</b>	<b>Primex<sup>3</sup> - NH Public Risk Management Exchange</b>
State of New Hampshire Department of Health and Human Services 129 Pleasant Street Concord, NH 03301			By: <i>Mary Beth Purcell</i>
			Date: 8/3/2023 mpurcell@nhprimex.org
			Please direct inquires to: Primex <sup>3</sup> Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax