

SERVICES AND FUNDING CONTRACT

THIS CONTRACT, made and entered into effective _____ 2018, by and between the CITY OF TACOMA, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and **Alliance for South Sound Health**, a Washington Nonprofit, 501(c)(3) Corporation, (hereinafter referred to as "CONTRACTOR");

WHEREAS, currently the state of Washington ranks 48th out of the 50 states for prevalence of mental health services and access to care, particularly when it comes to inpatient capacity. The national average for beds is 26.1 per 100,000 population, and

WHEREAS Washington State averages 8.3 and Pierce County averages 2.8 beds per 100,000, and therefore our community therefore is critically underserved and we must act to ensure the citizens of Tacoma have access to the mental health services they need, and

WHEREAS building a mental health care facility would push our average beds to 16.6 beds per 100,000 people. This is still under the nationwide average, but significantly expands our current capacity, and

WHEREAS the City has repeatedly shown its commitment to expanding mental health services, as evidenced by the implementation of the Mental Health Sales Tax; however, mental illness continues to be an issue in our community, and

WHEREAS untreated mental illness or substance use disorders and their related problems have clear and negative impacts on businesses and urban residential living, and often result in increased poverty, homelessness, and the breakdown of families, and

WHEREAS the ultimate costs for dealing with the issues of substance use disorders and mental health is shared by all, and

WHEREAS Alliance for South Sound Health is made up of two members, Multicare Health System and CHI Franciscan Health, and

In consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto agree as follows:

1. Scope of Services/Work

The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables described herein, for constructing a behavioral health hospital, which will provide year round treatment for up to 5,000 patients and include 120 beds for voluntary and involuntary admissions attached hereto and incorporated herein.

The funding under this agreement must be used imminently and for current work being performed on the design, study, and/or construction of the behavioral health hospital.

None of the funds is to be used for staff costs and associated expenses, or used for maintenance and operation of the hospital.

2. Payment

CONTRACTOR shall request a lump-sum payment of \$1.5 million for reimbursement of eligible project construction costs. CONTRACTOR'S staff labor, maintenance, and operations are not eligible for reimbursement. The reimbursement request shall include copies of original bills, invoices, expense accounts, payroll records/time sheets, and miscellaneous data and records retained by CONTRACTOR supporting the request for reimbursement. Within sixty (60) days of CONTRACTOR'S submittal of the reimbursement request, together with its warrant of monies paid and copies of the invoices that it has paid and any other records that the City requests, the City shall make one lump-sum payment of the Funds. CONTRACTOR shall apply the Funds exclusively to expenses incurred in the construction, study and/or design of the mental health hospital.

3. Compensation

The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract in accordance with terms outlined above.

The total price to be paid by CITY for CONTRACTOR'S full and complete performance of the Scope of Services hereunder shall not exceed **one million five hundred thousand** (\$1,500,000). This amount represents the total funding from the City of Tacoma for the behavioral health hospital.

4. Right to Audit

From the effective date of this Contract, and for six (6) years thereafter, the CITY shall have the right to inspect and audit during normal business hours all pertinent books and records of the CONTRACTOR and/or any sub-contractor or agent of CONTRACTOR that performed services or furnished deliverables in connection with or related to the Scope of Work hereunder as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract or in satisfaction of City's public disclosure obligations, as applicable. CONTRACTOR shall, upon three (3) business days of receipt of written request for such inspection and audit from CITY, provide the CITY with, or permit CITY to make, a copy of any work-related books, accounts, records and documents, in whole or in part, as specified in such request. Said inspection and audit shall occur in Pierce County, Washington or such other reasonable location as the CITY selects. The CITY shall bear the cost of any inspection audit requested hereunder, provided, that if an inspection audit in accordance with the foregoing provisions discloses overpricing or overcharges (of any nature) by the CONTRACTOR to the CITY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the CITY's audit shall be reimbursed to CITY by CONTRACTOR. Any adjustments or payments that

must be made as a result of any audit and inspection hereunder shall be made no later than 90 days from presentation of CITY's findings to CONTRACTOR.

CONTRACTOR shall ensure that the foregoing inspection, audit and copying rights of the CITY are a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform the Scope of Work under this Contract.

Upon CITY's request, CONTRACTOR shall make available to CITY all accounts, records and documents related to the performance of this Contract for CITY's inspection, auditing or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract or in satisfaction of City's public disclosure obligation, as applicable.

5. Notices

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

CITY: Name: Linda Stewart Title: Director, Neighborhood & Community Services Address: 747 Market Street, Room 836 Tacoma, WA 98402 Telephone No.: (253) 591 5225 E-mail: lstewart@cityoftacoma.org	CONTRACTOR: Name: Carianne Meyers Title: Director of Finance Address: c/o MultiCare Health System P.O. Box 5299, MS: 737-3-FS Tacoma, WA 98415 Telephone No.: (253) 459 8055 E-mail: Carianne.meyers@multicare.org
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6. Indemnification

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the sole negligence of the CITY, or its officers, agents, or employees. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

CONTRACTOR hereby warrants and represents CONTRACTOR is owner of any products, solutions or deliverables provided and licensed under this Contract or otherwise has the right to grant to CITY the licensed rights under this Contract, without violating the rights of any third party worldwide. CONTRACTOR shall, at its expense, defend, indemnify and hold harmless CITY and its employees, officers, directors, contractors, agents and volunteers from any claim or action against CITY which is

based on a claim against CITY for infringement of a patent, copyright, trademark, or other propriety right or appropriation of a trade secret.

It is expressly agreed that with respect to design professional services performed by CONTRACTOR herein, CONTRACTOR's duty of indemnification, including the duty and cost to defend, against liability for damages arising out of such services or out of bodily injury to persons or damage to property shall, as provided in RCW 4.24.115 apply only to the extent of CONTRACTOR's negligence.

7. Nondiscrimination

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

8. Public Disclosure

This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements of sub-section B herein, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. CITY shall not be liable for any release where notice was provided and CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the "Notices" provision herein.

9. Miscellaneous Provisions

Governing Law and Venue.

Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.

Assignment.

The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY. Notwithstanding the foregoing, the parties agree that financial accounting adjustments between CONTRACTOR and its Member, MultiCare Health System, based on its Member role as developer of the behavioral health facility shall not be deemed an assignment in contravention of this provision or otherwise be in conflict with the terms and intent of this Contract.

No Third Party Beneficiaries.

This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

Waiver.

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

Severability and Survival.

If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

Entire Agreement.

This Contract and the attached Exhibits, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.

Modification.

No modification or amendment of this Agreement shall be effective unless set forth in writing and signed by the Parties.

IN WITNESS WHEREOF, the Parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned Contractor representative, by signature below, represents and warrants they are duly authorized to execute this legally binding Contract for and on behalf of Contractor.

CITY OF TACOMA

Alliance for South Sound Health

Elizabeth Pauli
City Manager

Ian G. Worden
Vice President/Secretary

Approved:

Printed Name: Ian G. Worden

Address:
P.O. Box 5299, MS: 737-3FS
Tacoma, WA 98415

Linda Stewart, Director, Neighborhood
and Community Services

Tax ID: 603458691

Approved:

Andrew Cherullo
Director of Finance

Approved as to Form:

Deputy City Attorney