



South St. Paul

WORKSESSION AGENDA
SSP City Hall
125 3rd Avenue North
Training room

Monday, March 25, 2024
7:00 pm

AGENDA:

1. Pool Discussion
2. SSP Animal Hospital Development Project Update
3. Opioid Settlement JPA w/ Dakota County
4. Council Comments & Questions



AGENDA ITEM: Northview Pool Discussion

DESIRED OUTCOMES:

- Discuss mechanical and structural conditions at the Northview Pool
- Discuss and develop consensus about disposition of the Northview Pool.

OVERVIEW:

Having been in continuous service (with the exception of the “COVID” summers of 2020 – 2021) since its construction in 1956, Northview Pool is a standard midsize box pool with a shallow area of 3 feet that graduates to 12 ft and holds 250,000 gallons of water. Northview Pool amenities include a diving board, climbing wall, locker rooms and concessions. Northview Pool has been enjoyed for generations as an amenity providing affordable open swim, swim lessons, pool rentals and additional swim times for active older adults, but it is a 68 year-old facility with many original components and critical deferred maintenance items, making the pool being more costly to maintain and operate with each passing year.

The aging (original) pool shell has deteriorated beyond its usable life span, and in 2023 the Dakota County Department of Health advised the City that the pool shell, at minimum, should be completely refinished with “a white or light-colored material, non-toxic to humans, smooth, easily cleanable and devoid of cracks.” The Department noted that the existing pool basin was visibly distressed, with “multiple dark areas where finish is missing” completely. The Department’s report concluded by providing the City with a deadline to comply with this advisory no later than May 15, 2024. In addition to the pool shell, many of Northview Pool’s mechanical and filtration systems, concession stand, and locker rooms are also all original and beyond their reasonable useful life. Finally, in 2023, Kraus-Anderson completed a Facilities Condition Assessment for Northview Pool, which identified several facility elements/components that they classified as being in either “poor” or “critical” condition including the concrete pool deck, the (original, 68 year old) pool filters, the water heaters, the boiler, the pool basin, the ADA access, and the bathroom skylights, which were recommended for replacement in either 2024 or 2025 at a total estimated cost of \$1,360,455 (including inflation).

Northview Pool remained closed during COVID and did not open for either the 2020 or 2021 summer seasons. Upon re-opening the pool in 2022, staff noticed an increase in the amount of water being consumed by pool operations. In 2023, city staff became aware of extensive water loss at the facility, and installed a meter to monitor the water usage. While commercial pools always incur *some* water loss due to the sun, temperatures and daily use of patrons, weekly monitoring at Northview revealed that the structure was leaking extensively, with an average of 12,000 gallons per day being consumed at the pool. For reference, based on 2024 Utility Billing rates this water loss would equate to a cost of between \$135 - \$162 per day in water and sanitary sewer usage if the pool were a utility customer (or around \$20,000 total for a typical pool season).

In the Spring of 2024, Staff expects to present the final drafts of both the City’s Buildings & Facilities Master Plan as well as the updated Parks Master Plan. Both of these independent third-party analyses arrived at a recommendation that aquatics facilities in South St. Paul should be consolidated and that the existing Northview Pool be retired from service, to include removal of the existing pool structure and – unless a “re-use” for the existing pool house is identified to meet other Parks and Recreation needs – demolition of the poll house structure.

FINANCIAL CONSIDERATIONS:

Northview Pool Financials are attached below, for the past three operational years (the pool was closed in 2020 – 2021). As the table below indicates, operating deficits at the pool have persisted and continued to grow in recent years. With an understanding that the pool is a public good and some level of subsidy/support is necessary, this trend when coupled with the significant level of capital investment needed to address the facility’s critical structural and mechanical deficiencies is cause for reflection.

Description	Actual 2023	Actual 2022	Actual 2019
REVENUES			
PARKS AND RECREATION			
4452 - ADMISSIONS	14,995.53	17,603.73	13,276.07
4453 - CONCESSIONS	9,785.02	10,646.10	11,478.17
4454 - POOL RENTAL	1,141.98	1,174.98	2,862.00
PARKS AND RECREATION	25,922.53	29,424.81	27,616.24
MISCELLANEOUS			
4673 - CASH OVER/SHORT	621.42	327.83	850.08
MISCELLANEOUS	621.42	327.83	850.08
REVENUES	26,543.95	29,752.64	28,466.32
EXPENDITURES			
PERSONNEL SERVICES	59,412.11	55,689.20	45,310.68
MATERIALS & SUPPLIES			
MATERIALS & SUPPLIES	18,768.63	16,501.68	18,848.39
SERVICES AND OTHER CHARGES	15,113.37	14,453.47	19,201.82
REVENUES OVER (UNDER) EXPENDITURES	(66,750.16)	(56,891.71)	(54,894.57)
FOR REFERENCE (Season totals for BOTH Pools) NOT included in top number			
10520 - PARKS ADMINISTRATION			
4451 - SEASON TICKETS	14,017.60	11,248.54	16,808.84
4456 - SWIM PROGRAM LESSONS	2,073.34	2,214.32	2,174.00
REVENUES	16,090.94	13,462.86	18,982.84

As informed by the Draft Facilities Master Plan, the estimated cost to address all deferred maintenance items at the Northview Pool is just under \$2,000,000 through 2033, with the most critical of those items requiring just under \$1.3 million in investment between 2024 – 2025.

It should be clear that retiring the Northview Pool operation is not without costs. The facility is a beloved community asset and without a doubt members of the community would be disappointed

for the facility to cease operation, particularly if the City ultimately gets out of the “pool business” altogether (although the Draft Parks Plan will recommend investment into a single, new aquatic facility). In addition to the social cost that retiring the Northview Pool might bring, there would be a financial cost to retiring the pool, as well. For purely budgeting purposes, staff estimates that demolition of the pool and structures and restoration of the site at Northview could cost between \$125,000 and \$175,000.



COUNCIL WORK SESSION REPORT

DATE: MARCH 25, 2024

DEPARTMENT: ECONOMIC DEVELOPMENT AUTHORITY

PREPARED BY: Ryan Garcia

ADMINISTRATOR:

2

AGENDA ITEM: SSP Animal Hospital Development Project Update

DESIRED MEETING OUTCOMES:

- Provide update on development project on Concord Exchange South.
- Discussion about amending Development Agreement with Blue River Holdings, LLC to extend the Closing Date.
- Discuss concept of providing for a forgivable loan or grant for the balance of acquisition cost (\$65,000)
- Obtain direction for placement on April 1 EDA Agenda.

OVERVIEW:

In November 2021, the EDA held a public hearing to authorize the sale of property on the west side of Concord Exchange South, generally located north of Al's Corral, and approved Resolution 2021 – 27 authorizing the sale and execution of a Development Agreement with Blue River Holdings, LLC (Blue River). Blue River is the real estate entity created by Dr. David Abramowicz who is also the owner of the South St. Paul Animal Hospital, a longtime South St. Paul small business. Blue River's interest in the EDA property related to a need to construct a new, significantly larger building to house their veterinary clinic, which is currently operating out of a building owned by Dr. Abramowicz at 501 Concord Street North. The Agreement has been amended four times previously, each time to extend certain dates found in the agreement (contingency, closing, commencement and completion), as Blue River has worked to work with a general contractor to "right-size" the project budget and gain clarity around project financing. The Current version of the Agreement (Amendment #4), approved in August 2023, states that the EDA and Blue River will execute all closing documents to transfer the ownership of the property to Blue River on or before April 30, 2024. Blue River has advised that while they have mostly solidified their development plan and project budget, they were delayed in working through the SBA application and approval process by an unexpected audit in 2023. As such, Blue River is requesting an Amendment #5 to the Development Agreement, to amend the Closing Date to on or before August 30, 2024. Staff suggests that the Commencement Date (currently identified as August 1, 2024 per Amendment #4) should also be amended to October 1, 2024. The Completion Date is still anticipated to be on or before December 31, 2025.

In addition, Blue River has found that unforeseen challenges related to geotechnical and environmental conditions – while eligible for the Dakota County Redevelopment Incentive Grant awarded for this project – have pushed the project budget. Their lender has inquired as to whether Blue River could receive a grant or forgivable loan equivalent to the balance on the purchase price of the property, which is \$65,000 (Blue River already deposited \$10,000 in earnest money at the time the Agreement was executed). The EDA has, in the past, taken this approach – most recently for the Stockyards Restaurant property in 2017. This property is located within the Concord Street #2 Tax Increment Finance District. The 2009 TIF Plan identifies as eligible expenditures within the district "Land Acquisition". Staff proposes that the

City could execute a grant to the business which would be sourced from pooled increment (cash) in the Concord TIF Fund (Fund 40490), resulting in a full write-down of the land cost.

FUNDING SOURCES AND OTHER FISCAL CONSIDERATIONS:

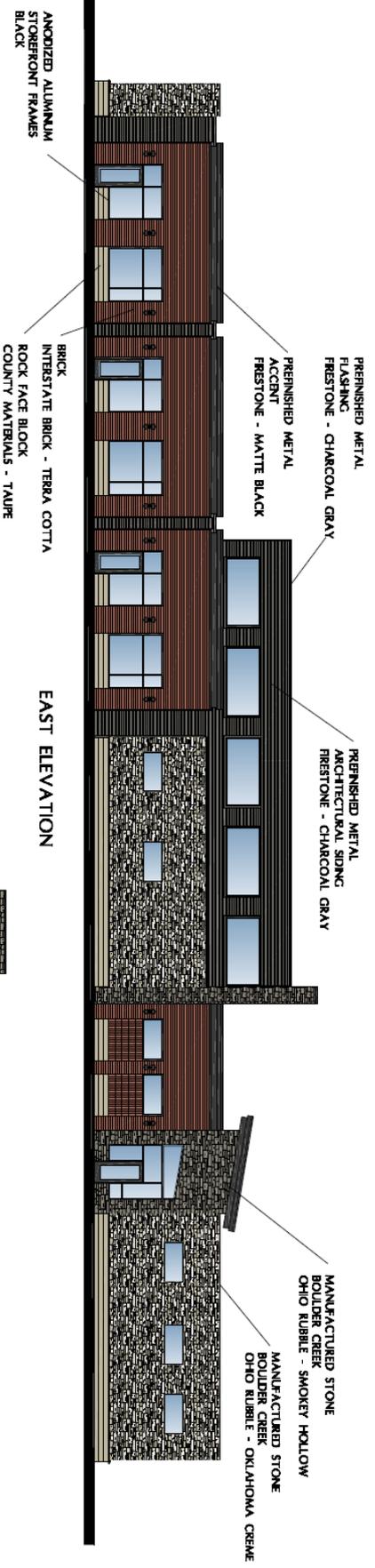
The EDA-owned property has been property tax exempt for a number of years. The proposed development should be expected to generate a total market value for taxable purposes of between \$2,500,000 and \$3,000,000, which would result in a total annual property tax bill (in 2024 figures) of between \$75,000 and \$93,000. At current tax rates, the City portion of this property tax bill is estimated at \$21,000 - \$26,000, while the SSD #6 portion is estimated at \$15,000 - \$19,000.

ATTACHMENTS:

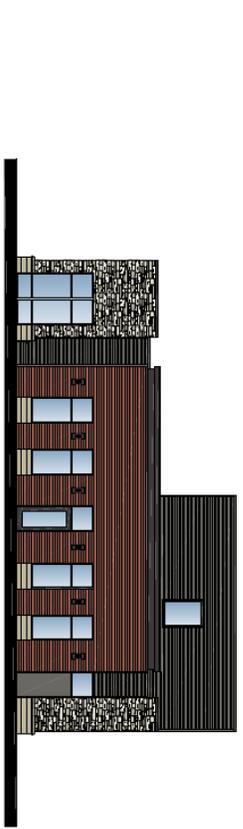
Orientation Map
Approved Development Plan

PROPERTY/ORIENTATION MAP

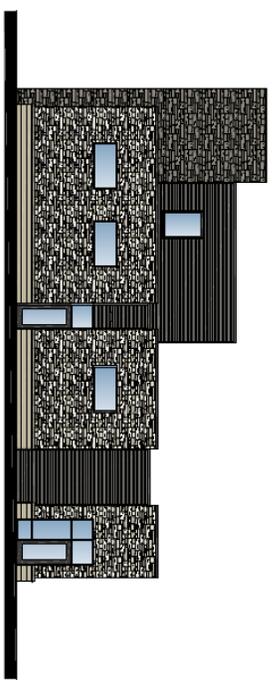




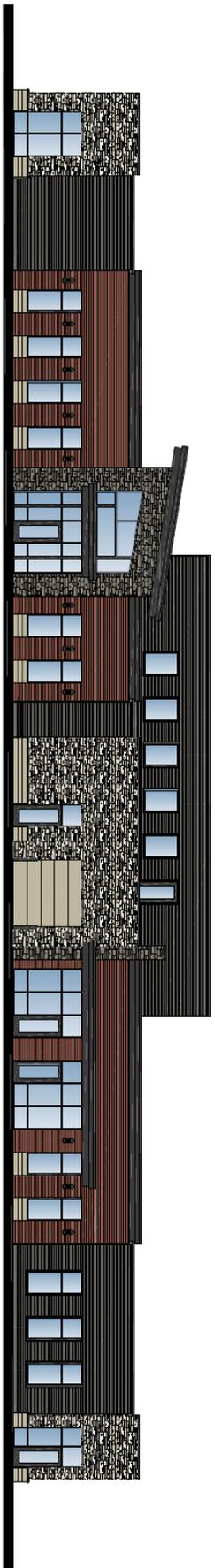
EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION



AGENDA ITEM: Opioid Settlement JPA w/ Dakota County

DESIRED OUTCOMES:

- Present and discuss draft Joint Powers Agreement with Dakota County for the distribution of funds to SSP in relation to Dakota County’s Opioid Settlement
- Gain consensus to place JPA on future Council Consent Agenda for formal approval

SUMMARY OF ISSUE:

As part of a multi-state lawsuit against opioid manufacturers and distributors, the State of Minnesota received a settlement payout of more than \$300 million, with 75% of settlement dollars going (proportionally based upon a formula) to all Minnesota Counties as well as 33 cities with populations over 30,000 on an annual basis through 2038. South St. Paul does not receive a direct allocation of these funds based upon our population size, however Dakota County has started receiving their annual allocation of more than \$16,000,000 (total) and has “carved out” a portion of 2024 funds to be distributed to the Cities of South St. Paul, West St. Paul, Mendota Heights, Farmington, Rosemount, and Hastings. A total of \$195,000 has been set aside for the six communities, currently based upon a per capita allocation method, as follows:

City	2019 Population	City Designated Funds
Farmington	23,091	\$36,743
Hastings	22,886	\$36,417
Mendota Heights	11,343	\$18,049
Rosemount	25,207	\$40,110
South St. Paul	20,060	\$31,920
West St. Paul	19,961	\$31,762

Staff has been working with the other communities to advocate for an allocation formula that would better reflect the scope and scale of the opioid crisis that exists in South St. Paul/West St. Paul, where overdose calls in 2022 (most recent complete data) were more than 5x higher than in Rosemount, 9x higher than in Mendota Heights, 2x higher than in Hastings, and 3x higher than in Farmington. Of the six communities identified by the County for an allocation, only Hastings has expressed a preference for the Per Capita allocation method, although their City Administrator has communicated that they would make either formula work. This formula, borrowed from the original settlement, would result in the following allocation to each city:

City	Original MOA Percentage	Percentage of City Designated Funds	City Designated Funds
Farmington	0.1233974343%	11.90%	\$23,201
Hastings	0.1717081346%	16.56%	\$32,285
Mendota Heights	0.0821776269%	7.92%	\$15,451
Rosemount	0.1131711446%	10.91%	\$21,279
South St. Paul	0.3555870478%	34.29%	\$66,858
West St. Paul	0.1910746887%	18.42%	\$35,926

Staff has presented to the County Board’s Community Services Committee of the Whole a proposal that would utilize the “formula” approach presented above, and the full County Board will consider this at their meeting on Tuesday, March 26. Fundamentally, SSP will work with either allocation to support our City’s (primarily through SMFD and SSPPD) interaction with and response to the opioid epidemic in SSP. These funds could help support:

- Enhanced public information and outreach about the crisis in our community
- Additional training for first responders and, as appropriate, other City Staff.
- Pilot a “community” training/education campaign around opioid response
- Sharps and medications disposal
- Pilot a care coordination/follow-up partnership with service providers familiar with and active in our community (essentially a “lite” version of the 2023 OERAC proposal that was not funded through the grant)

Regardless of the funding allocation method, a Joint Powers Agreement (JPA) is required by the County prior to delivery of any funds. A draft of the JPA is attached for consideration. Along with West St. Paul, SSP has asked for an edit to Section 8 of the JPA, which the County has proposed as follows:

8. The Contractor shall not engage subcontractors under this Agreement without the written consent of the County. It is the Contractor’s responsibility to make sure all subcontractors are subject to the provisions of this Agreement that are applicable to the Contractor.

Staff will continue to work with Dakota County and other partners to advocate for additional resources to help our community and County combat the opioid epidemic, above and beyond this allocation. The County has signaled a willingness to support a renewed/revised application for the OERAC grant, and we remain optimistic that as the County’s Opioid Advisory Committee settles in there will be additional opportunities to leverage the County’s support for additional innovative and effective programs and approaches to these efforts. In the meantime, we look forward to the Council’s feedback and direction on the proposed JPA and allocation approach.

**JOINT POWERS AGREEMENT
BETWEEN THE COUNTY OF DAKOTA AND
CITY OF _____ MINNESOTA**

This Joint Powers Agreement (“Agreement”) is entered into by and between the County of Dakota, a political subdivision of the State of Minnesota, by and through its Department of Public Health, and the City of _____ [address] (“Contractor”), by and through their respective governing bodies.

RECITALS

WHEREAS, the County and the Contractor are governmental units as that term is defined in Minn. Stat. §471.59;

WHEREAS, under Minn. Stat. §471.59, subd.1, two or more governmental units may enter into an agreement to cooperatively exercise any power common to the contracting Parties, and one of the participating governmental units may exercise one of its powers on behalf of the other governmental units;

WHEREAS, the County has received funds from the National Opioid Settlement;

WHEREAS, the County is permitted to make grants of Opioid Settlement Funds to recipients who spend the funds in compliance with the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement (MOA); and

WHEREAS, the County is providing Contractor with Opioid Settlement Funds described herein based the grant expenditure requirements outlined in Exhibit 2, Service Grid.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the County and Contractor hereby agree as follows:

1. Effective Date. This Agreement shall be effective as of the dates of signature by the parties through December 31, 2025.
2. Purpose. The purpose of this Agreement is to provide Opioid Settlement Funds from the County to the Contractor. Such funds shall be used by the Contractor solely for the purposes described in Exhibit 2, Service Grid.
3. Contractor’s obligations under Opioid Settlement Agreements. The grant funds provided to Contractor under this agreement are subject to the terms and conditions contained in both the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement document (“MOA”), which can be found at: https://www.ag.state.mn.us/opioids/docs/MN_MoA.pdf, and the Reporting and Compliance Addendum document, which can be found at: https://www.ag.state.mn.us/opioids/docs/MN_MOA_ReportingAddendum.pdf (“Addendum to MOA”). Contractor agrees to comply with all terms and conditions that are applicable to Participating Local Governments, recipients and grantees under such MOA and Addendum.

In accordance with Part III., Section D of the MOA, Participating Local Governments may make contracts with or grants to a nonprofit, charity, or other entity with Opioid Settlement Funds.

Under the Addendum to MOA, Part I. Section f, a Participating Local Government that receives Opioid Settlement Funds and grants those funds to subrecipients or grantees, including to other Local Governments, is responsible for monitoring and tracking the distribution and use of those funds to satisfy the entity’s reporting obligations. Contractor therefore must comply with such monitoring and tracking requirements for the funds it receives under this Agreement. Pursuant to the Addendum to MOA Part II, Section b, all grantees and subrecipients must comply with Minnesota Statutes section 16C.05, subdivision 5. Subrecipients and grantees must also comply with the Minnesota Government Data Practices Act, as provided by Minnesota Statutes section 13.05, subdivision 11.” Under Section C, all Participating Local Governments must maintain, for a period of at least six years, records of Opioid Settlement Fund expenditures and documents underlying those expenditures.

4. County Obligations. The County agrees to reimburse the Contractor in an amount not to exceed \$_____ for costs incurred in performing services fulfilling the Purpose described above from the Effective Date through December 31, 2025.

5. Reimbursement and Reporting. After this Agreement has been executed by both parties, the Contractor may claim reimbursement for expenditures incurred in connection with the performance of activities that are eligible for reimbursement in accordance with this Agreement. The County will reimburse the Contractor within 45 calendar days of the Contractor’s submission of invoices to the County. Invoices must be submitted using the form in Exhibit 3. All requests for reimbursement must be submitted as outlined in Exhibit 2, Service Grid. The Contractor must certify that the requested reimbursements are accurate, appropriate and eligible in accordance with the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement (MOA), which states the following in part:
 1. Opioid Settlement Funds can be used for a purpose when the Governing Body includes in its budget or passes a separate resolution authorizing the expenditure of a stated amount of Opioid Settlement Funds for that purpose or those purposes during a specified period of time.

 2. The budget or resolution must (i) indicate that it is an authorization for expenditures of opioid settlement funds; (ii) state the specific strategy or strategies the county or city intends to fund, using the item letter and/or number in Exhibit A to identify each funded strategy, if applicable; and (iii) state the amount dedicated to each strategy for a stated period of time.

6. Authorized Representatives. The following named persons are designated as the Authorized Representatives of the parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications only to the extent authorized by a specific resolution of the party’s governing board. Notice required to be provided pursuant this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification to this Agreement.

The County's Authorized Representative is:
Marti Fischbach, Community Services Director
Telephone: 651-554-5742
Email: Marti.Fischbach@co.dakota.mn.us

Liz Oberding, has the responsibility to monitor the Contractor's performance pursuant to this Agreement and the authority to approve invoices submitted for reimbursement.

The Contractor's Authorized Representative is:

Name, address

Telephone:

Email:

The parties shall provide written notification to each other of any change to the Authorized Representative. Such written notification shall be effective to change the designated liaison under this Agreement, without necessitating an amendment of this Agreement.

7. Assignment. The Contractor may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the County and a fully executed assignment agreement, executed by the County and the Contractor.
8. Use of Subcontractors. Contractor shall not engage subcontractors under this Agreement without an amendment to this Agreement, approved by a specific resolution of each party's governing board and signed by an authorized representative of both parties.
9. Indemnification. To the fullest extent permitted by law, Contractor agrees to indemnify the County, its officers, employees, agents, and others acting on its behalf and to hold them harmless and defend and protect them from and against any and all loss, damage, liability, cost and expense, specifically including reasonable attorneys' fees and other costs and expenses of defense, for any actions, claims or proceedings of any sort which are caused by any act or omission of Contractor, its officers, employees, agents, subcontractors, invitees, or any other person(s) or entity(ies) for whose acts or omissions Contractor may be legally responsible. Nothing herein shall be construed as a waiver by Contractor of any of the immunities or limitations of liability to which it may be entitled pursuant to Minn. Stat. Ch. 466 or any other statute or law.
10. Insurance Terms. In order to protect itself and to protect the County under the indemnity provisions set forth above, Contractor shall, at its expense, procure and maintain policies of insurance covering the term of this Agreement. All retentions and deductibles under such policies shall be paid by the Contractor.
11. Audit. The Contractor shall maintain books, records, documents and other evidence pertaining to the costs or expenses associated with the work performed pursuant to this Agreement. Upon request the Contractor shall allow the County, Legislative Auditor or the State Auditor to inspect, audit, copy or abstract all of the books, records, papers or other documents relevant to this Agreement. The Contractor shall use generally accepted accounting principles in the maintenance of such books and records, and shall retain all of such books, records, documents and other evidence for a period of six (6) years from the date of the completion of the activities funded by this Agreement.
12. Data Practices. The Contractor agrees with respect to any data that it possesses regarding the Agreement to comply with all of the provisions of the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as the same may be amended from time to time.

13. Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed as creating or establishing the relationship of co-partners or joint ventures between the County and the Contractor, nor shall the County be considered or deemed to be an agent, representative or employee of the Contractor in the performance of this Agreement. Personnel of the Contractor or other persons while engaging in the performance of this Agreement shall not be considered employees of the County and shall not be entitled to any compensation, rights or benefits of any kind whatsoever.
14. Governing Law, Jurisdiction and Venue. Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be with the appropriate state court with competent jurisdiction in Dakota County.
15. Compliance with Law. The Contractor agrees to conduct its work under this Agreement in compliance with all applicable provisions of federal, state, and local laws, ordinances, or regulations, and further agrees to comply with Exhibit 1, Standard Assurances. The Contractor is responsible for obtaining and complying with all federal, state, or local permits, licenses, and authorizations necessary for performing the work.
16. Default and Remedies.
 - (a) Events of Default. The following shall, unless waived in writing by the County, constitute an event of default under this Agreement: If the Contractor fails to fully comply with any material provision, term, or condition contained in this Agreement.
 - (b) Notice of Event of Default and Opportunity to Cure. Upon the County's giving the Contractor written notice of an event of default, the Contractor shall have thirty (30) calendar days in which to cure such event of default, or such longer period of time as may be reasonably necessary so long as the Contractor is using its best efforts to cure and is making reasonable progress in curing such events of default (the "Cure Period"). In no event shall the Cure Period for any event of default exceed two (2) months. Within ten (10) calendar days after receipt of notice of an event of default, the Contractor shall propose in writing the actions that the Contractor proposes to take and the schedule required to cure the event of default.
 - (c) Remedies. Upon the Contractor's failure to cure an event of default within the Cure Period, the County may enforce any or all of the following remedies, as applicable:
 - (1) The County may refrain from disbursing the settlement monies; provided, however, the County may make such a disbursement after the occurrence of an event of default without thereby waiving its rights and remedies hereunder.
 - (2) The County may enforce any additional remedies it may have in law or equity.
 - (3) The County may terminate this Agreement and its obligation to provide funds under this Agreement for cause by providing thirty (30) days' written notice to the Contractor. Such notice to terminate for cause shall specify the circumstances warranting termination of the Agreement. Cause shall be a material breach of this Agreement and any supplemental agreement or modification to this Agreement or an event of default. Notice of Termination

shall be made by certified mail or personal delivery to the Authorized Representative of the other Party. For purposes of termination and default, all days are calendar days.

17. Non-Appropriation. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated immediately by the County in the event sufficient funds from the County, State, Federal or other sources are not appropriated, obtained and continued at least the level relied on for the funding of this Agreement, and the non-appropriation of funds did not result from any act or bad faith on the part of the County.
18. Ownership of Materials and Intellectual Property Rights.
 - (a) Except as otherwise required by Minnesota or Federal Law, the County agrees to, and hereby does, assign all rights, title and interest it may have in the materials conceived or created by the Contractor, or its employees or subgrantees, and which arise out of the performance of this Agreement, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (“Materials”).
 - (b) The Contractor represents and warrants that Materials produced or used under this Agreement do not and will not infringe upon any intellectual property rights of another. Contractor shall indemnify and defend the County, at its expense, from any action or claim brought against the County to the extent that it is based on a claim that all or parts of the Materials infringe upon the intellectual property rights of another.
19. Exhibits. The following exhibits are attached to and incorporated within this Subgrant Agreement.
 - Exhibit 1: Standard Assurances;
 - Exhibit 2: Service Grid;
 - Exhibit 3: Invoice Form.
21. Waiver. If the County fails to enforce any provision of this Agreement, that failure shall not result in a waiver of the right to enforce the same or another provision of this Agreement.
22. Complete Agreement. This Agreement and Exhibits contain all negotiations and agreements between the County and the Contractor. Any amendment to this Agreement must be in writing and executed by the County and the Contractor. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party. In the event of a conflict between the terms of any Exhibit and the body of this Agreement, this Agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Approved as to form:

COUNTY OF DAKOTA

Assistant County Attorney/Date

By: _____

Title: _____

Date: _____

Dakota County Contract _____
Dakota County BR 22-____

**CITY OF SOUTH ST. PAUL, MINNESOTA
CONTRACTOR**

By: _____

Title: _____

Date: _____

**EXHIBIT 1
STANDARD ASSURANCES**

1. **NON-DISCRIMINATION.** During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because the person is a member of a protected class under, and as defined by, federal law or Minnesota state law including, but not limited to, race, color, creed, religion, sex, gender, gender identity, pregnancy, national origin, disability, sexual orientation, age, familial status, marital status, veteran's status, or public assistance status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without unlawful discrimination.. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this nondiscrimination clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, national origin, disability, sexual orientation, age, marital status, veteran's status, or public assistance status.

No funds received under this Contract shall be used to provide religious or sectarian training or services.

The Contractor shall comply with any applicable federal or state law regarding non-discrimination. The following list includes, but is not meant to limit, laws which may be applicable:

A. The Equal Employment Opportunity Act of 1972, as amended, 42 U.S.C. § 2000e *et seq.* which prohibits discrimination in employment because of race, color, religion, sex, or national origin.

B. Equal Employment Opportunity-Executive Order No.11246, 30 FR 12319, signed September 24, 1965, as amended, which is incorporated herein by reference, and prohibits discrimination by U.S. Government contractors and subcontractors because of race, color, religion, sex, or national origin.

C. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.* and 45 C.F.R. 84.3 (J) and (K) implementing Sec. 504 of the Act which prohibits discrimination against qualified handicapped persons in the access to or participation in federally-funded services or employment.

D. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.* as amended, and Minn. Stat. § 181.81, which generally prohibit discrimination because of age.

E. The Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d), which provides that an employer may not discriminate on the basis of sex by paying employees of different sexes differently for the same work.

F. Minn. Stat. Ch. 363A, as amended, which generally prohibits discrimination because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

G. Minn. Stat. § 181.59 which prohibits discrimination against any person by reason of race, creed, or color in any state or political subdivision contract for materials, supplies, or construction. Violation of this section is a misdemeanor and any second or subsequent violation of these terms may be cause for forfeiture of all sums due under the Contract.

H. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 through 12213, 47 U.S.C. §§ 225, 611, with regulations at 29 C.F.R. § 1630, which prohibits discrimination against qualified individuals on the basis of a disability in term, condition, or privilege of employment.

I. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and including 45 CFR Part 80, prohibits recipients, including their contractors and subcontractors, of federal financial assistance from discriminating on the basis of race, color or national origin which includes not discriminating against those persons with limited English proficiency.

J. The Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* which prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions.

K. Equal Protection of the Laws for Faith-based and Community Organizations-Executive Order No. 13279, signed December 12, 2002 and as amended May 3, 2018. Prohibits discrimination against grant seeking organizations on the basis of religion in the administration or distribution of federal financial assistance under social service programs, including grants and loans.

L. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, with regulations at 41 C.F.R. Part 60-250, which prohibits discrimination in employment against protected veterans.

2. **DATA PRIVACY.** For purposes of this Contract, all data created, collected, received, stored, used, maintained, or disseminated by Contractor in the performance of this Contract are subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (“MGDPA”) and the Minnesota Rules implementing the MGDPA. Contractor must comply with the MGDPA as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. Contractor does not have a duty to provide access to public data to a data requestor if the public data are available from the County, except as required by the terms of this Contract. If Contractor is a subrecipient of federal grant funds under this Contract, it will comply with the federal requirements for the safeguarding of protected personally identifiable information (“Protected PII”) as required in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, and the County Protected PII procedures, which are available upon request. Additionally, Contractor must comply with any other applicable laws on data privacy. All subcontracts shall contain the same or similar data practices compliance requirements.

3. **RECORDS DISCLOSURE/RETENTION.** Contractor's bonds, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Contract are subject to the examination, duplication, transcription, and audit by the County and either the Legislative or State Auditor, pursuant to Minn. Stat. § 16C.05, subd. 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. The Contractor agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.

4. **WORKER HEALTH, SAFETY AND TRAINING.** Contractor shall be solely responsible for the health and safety of its employees in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subcontractors and other persons who may perform work in connection with this Contract. Contractor shall ensure all personnel of Contractor and subcontractors are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks engaged in under this Contract. Each Contractor shall comply with federal, state, and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act which are applicable to the work to be performed by Contractor.

5. **PROHIBITED TELLECOMMUNICATIONS EQUIPMENT/SERVICES.** If Contractor is a subrecipient of federal grant funds under this Contract, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018) (the “Act”), and 2 CFR § 200.216, Contractor will not use funding covered by this Contract to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any agreement related to this Contract.

6. **CONTRACTOR GOOD STANDING.** If Contractor is not an individual, Contractor must be registered to do business in Minnesota with the Office of the Minnesota Secretary of State and shall maintain an active/in good standing status with the Office of the Minnesota Secretary of State, and shall notify County of any changes in status within five calendar days of such change. Business entities formed under the laws of a jurisdiction other than Minnesota must maintain a certificate of authority (foreign corporations, limited liability companies, limited partnerships, and limited liability limited partnerships), or a statement of foreign qualification (foreign limited liability partnerships), or a statement of partnership authority (general partnerships). See Minn. Stat. §§ 303.03 (corporations); 322C.0802 (limited liability companies); 321.0902 and 321.0907 (foreign limited partnership); 321.0102(7) (foreign limited liability limited partnerships); 323A.1102(a) (foreign limited liability partnership); 321.0902 and 321.0907 (foreign general partnerships).

7. **CONTRACTOR DEBARMENT, SUSPENSION, AND RESPONSIBILITY CERTIFICATION.** Federal Regulation 45 CFR 92.35 prohibits the State/Agency from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minn. Stat. § 16C.03, subd. 2 provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the State/Agency. Vendors may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner.

By signing this Contract, the Contractor certifies that it and its principals* and employees:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state, or local governmental department or agency; and
- B. Have not within a three (3) year period preceding this Contract: 1) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; 2) violated any federal or state antitrust statutes; or 3) committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
- C. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for: 1) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction; 2) violating any federal or state antitrust statutes; or 3) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
- D. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Contract are in violation of any of the certifications set forth above; and
- E. Shall immediately give written notice to the Authorized Representative should Contractor come under investigation for allegations of fraud or a criminal offense in connection with obtaining, or performing a public (federal, state, or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

*"Principals" for the purposes of this certification means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager; plant manager; head of a subsidiary, division, or business segment and similar positions).

8. **HEALTH DATA PRIVACY.** When applicable to the Contractor's duties under this Contract, the Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), Minnesota Health Records Act, and any other applicable health data laws, rules, standards, and requirements in effect during the term of this Contract.

9. **APPEALS.** The Contractor shall assist the County in complying with the provisions of Minn. Stat. § 256.045, Administrative and Judicial Review of Human Services Matters, if applicable.

10. **REPORTING.** Contractor shall comply with the provisions of the "Child Abuse Reporting Act", Minn. Stat. § 626.556, as amended, and the "Vulnerable Adult Reporting Act", Minn. Stat. § 626.557, as amended, and any rules promulgated by the Minnesota Department of Human Services, implementing such Acts.

11. **PSYCHOTHERAPISTS.** Contractor has and shall continue to comply with the provisions of Minn. Stat. Ch. 604, as amended, with regard to any currently or formerly employed psychotherapists and/or applicants for psychotherapist positions.

12. **EXCLUDED MEDICAL ASSISTANCE PROVIDERS.** By signing this contract, Provider certifies that it is not excluded. 42 U.S.C. § 1397 *et seq.* (subch. XX) of the Social Security Act.

13. **MDHS THIRD-PARTY BENEFICIARY.** The following applies to contracts related to adult mental health services; see Minn. Stat. § 245.466, subd. 2. Contractor acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary and as a third-party beneficiary, is an affected party under this Contract. Contractor specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue Contractor for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance of all or any part of the Contract between the County Board and Contractor. Contractor specifically acknowledges that the County Board and the Minnesota Department of Human Services are entitled to and may recover from Contractor reasonable attorneys' fees and costs and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision shall not be construed to limit the rights of any party to the Contract or any other third

party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity. (Minn. Stat. § 245.466, subd. 3; Minn. R. 9525.1870, subp. 2).

Directions for Online Access to Excluded Providers

To ensure compliance with this regulation, identification of excluded entities and individuals can be found on the Office of Inspector General (OIG) website at https://oig.hhs.gov/exclusions/exclusions_list.asp

Attycv/Exh SA (Rev. 1-23)

Purpose

On October 3, 2023, County held a board workshop to discuss next steps related to the opioid response. As a part of that meeting, Public Health requested the provision of Opioid Settlement funding to cities in Dakota County with populations between 10,000 and 30,000, which includes Contractor, to support eligible activities in accordance with the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement funded through the National Opioid Settlement Funds.

Goal

Provide Contractor with access to opioid settlement funds

Service Expectations

- Contractor may only use these funds in accordance with the Amended Minnesota Opioids State-Subdivision Memorandum Of Agreement and Minnesota Opioids State-Subdivision Memorandum of Agreement Reporting and Compliance Addendum found at the following links:
 - https://www.ag.state.mn.us/opioids/docs/MN_MoA.pdf
 - https://www.ag.state.mn.us/opioids/docs/MN_MOA_ReportingAddendum.pdf

Process Measures

In accordance with the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement (MOA), the process for drawing from special revenue funds is as follows.

1. Opioid Settlement Funds can be used for a purpose when the Governing Body includes in its budget or passes a separate resolution authorizing the expenditure of a stated amount of Opioid Settlement Funds for that purpose or those purposes during a specified period of time.
2. The budget or resolution must (i) indicate that it is an authorization for expenditures of opioid settlement funds; (ii) state the specific strategy or strategies the County or Contractor intends to fund, using the item letter and/or number in Exhibit A to identify each funded strategy, if applicable; and (iii) state the amount dedicated to each strategy for a stated period of time.

In accordance with Part III., Section D of the MOA, grant making is considered allowable such that participating Local Governments may make contracts with or grants to a nonprofit, charity, or other entity with Opioid Settlement Funds.

Furthermore, under the Minnesota Opioids State-Subdivision Memorandum of Agreement Reporting and Compliance Addendum under Part I. Section F. “any Participating Local Government that directly receives Opioid Settlement Funds and grants those funds to subrecipients or grantees, including other Local Governments, is responsible for monitoring and tracking the distribution and use of those funds to satisfy the entity’s reporting obligations.” All grantees will further be “subject to audit and Data Practices Act. All contracts and pass-through disbursements of Opioid Settlement Funds to subrecipients or grantees must comply with Minnesota Statutes section 16C.05, subdivision 5. Subrecipients or grantees must comply with the Minnesota Government Data Practices Act, as provided by Minnesota Statutes section 13.05, subdivision 11.”

Given these allowances, Contractor will be required to adhere to the process for drawing from special revenue funds, as outlined in the Part III, Section C of the MOA, which states City Council resolution is required for authorization of expenditures of Opioid Settlement funds.

Outcome Measures

- Contractor must abide by the measures outlined in the Minnesota Opioids State-Subdivision Memorandum Of Agreement Reporting And Compliance Addendum
 - https://www.ag.state.mn.us/opioids/docs/MN_MOA_ReportingAddendum.pdf

Reporting

- Contractor must abide by the measures outlined in the Minnesota Opioids State-Subdivision Memorandum Of Agreement Reporting And Compliance Addendum
 - https://www.ag.state.mn.us/opioids/docs/MN_MOA_ReportingAddendum.pdf
- Reporting is based on expenditures made during the calendar year (January-December) and should be due from cities no later than Feb. 15 of the following year.
- Reporting is required in accordance to the DHS reporting addendum Appendix A
 - https://www.ag.state.mn.us/opioids/docs/MN_MOA_ReportingAddendum.pdf (found on last page)

County Responsibilities

- County will be responsible for submitting required reporting to DHS by March 31, annually.
- Facilitate opportunities for Public Health staff to provide feedback on related strategies and work related to the expenditure of Opioid Settlement Funds
- Collaboratively plan strategy and logistics for successful expenditure of Opioid Settlement Funds
- Process invoices for the reimbursement of the use of funds

Billing Procedures

- County will be responsible for the processing of reimbursements for the use of funds
- Invoice provided as Exhibit 3, shall be submitted to PHInvoices@co.dakota.mn.us via email.

Include the specific city council resolution approving the expenditure for opioid settlement funds to this invoice

The resolution must:

- (i) indicate that it is an authorization for expenditures of opioid settlement funds;
 - (ii) state the specific strategy or strategies the county or city intends to fund, using the item letter and/or number in Exhibit A to identify each funded strategy, if applicable; and
 - (iii) state the amount dedicated to each strategy for a stated period of time
- The County shall make payment to Contractor within forty-five (45) days of the date on which the invoice is received, and services are accepted by the County.
 - If the invoice is incorrect, defective, or otherwise improper, the County will notify Contractor within ten (10) days of receiving the incorrect invoice. Upon receiving the corrected invoice from Contractor, the County will make payment within forty-five (45) days.
 - Late Request for Payments. The County has an absolute right to refuse payment on invoices received or postmarked more than ninety (90) days after the date that invoiced services were performed

Inclusion, Diversity & Equity

The County embraces and supports person-centered practices and expects contractors to do the same. Person-centered practices are structured in a way to support a client's comfort and ability to express choice, control, and direction in all aspects of service delivery and support. While the nature of some services and service deliveries is such that it must account for factors beyond the client's choice, control and direction, including, but not limited to, the terms of this Contract, court orders, the safety of the client and others, and governing law, the County values consideration of the client's perspective, knowing that services are more efficient and effective when aligned with client choice.

[For more information, refer to *Person-Centered, Informed Choice and Transition Protocol*, Minnesota Department of Human Services, issued 3/27/17 and updates.]

The County further recognizes that pervasive racism, discrimination and other institutional and community biases, as well as harm from historical trauma, are experienced by cultural communities and that this may contribute to overrepresentation of cultural communities in some County services. Appropriate service delivery often requires open discussion considering the real-life experiences of the people served, paying attention to the impact of pervasive racism and bias. At the referral level, it means inquiring with families about how to integrate their family or individual culture into service delivery. At the service level, it includes attention to outcomes for families receiving services in order to assess whether effectiveness differs in cultural communities and responding to any differences.

It is expected that while performing services for the County, the Contractor shall abstain from unacceptable behaviors including, but not limited to:

- Racial, ethnic or discriminatory jokes or slurs;
- Hostile, condemning, or demeaning communications, both verbal and written;
- Behavior demonstrating disrespect, dishonesty, intimidation, or disruption to the work relationship; and
- Retaliation against any person who reports or addresses unacceptable behavior.

It is the responsibility of the Contractor to ensure staff delivering services for the County are aware of these expectations and trained as needed to ensure respectful, cooperative and professional conduct in interactions with County staff and clients. If the County experiences or receives a report of an unacceptable behavior, it will share the report with Contractor. The Contractor must inform the County of steps taken to remedy the unacceptable behavior within ten (10) working days. If the unacceptable behavior persists, the County may terminate the Contract pursuant to the termination provision in the Contract.

