

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **THE COLORADO COALITION FOR THE HOMELESS**, a Colorado non-profit corporation, located at 2111 Champa Street, Denver, Colorado 80205 (the “Contractor”), collectively “the parties”.

RECITALS

A. The City and Contractor entered into an Agreement dated August 18, 2014 (the “Agreement”).

B. The City and Contractor wish to amend the Agreement to revise the scope of work and budget as set forth below.

The parties agree as follows:

1. All references in the Agreement to Exhibit A are amended to read **Exhibit A-1**.
2. Subparagraph A., entitled “**Confidential Information**,” of Article 28, entitled “**CONFIDENTIAL INFORMATION; OPEN RECORDS**,” is amended by inserting the following paragraph immediately before subparagraph 28.A.(1):

“The Contractor agrees to comply with all applicable state and federal laws protecting the privacy or confidentiality of any and all information, including protected health information, and to comply with all requirements contained in Exhibit E, which is attached to the Amendatory Agreement and incorporated into the Agreement by this reference.”

3. This Amendatory Agreement is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

4. Except as amended here, the Agreement is affirmed and ratified in every particular.

Exhibits:

Exhibit A-1, Scope of Work

Exhibit E, Business Associate Terms -HIPAA/HITECH

SIGNATURE PAGES FOLLOW

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

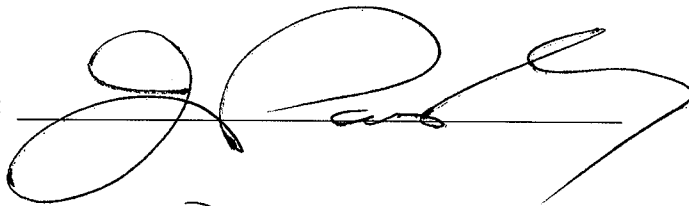
By _____

By _____



Contract Control Number: SOCSV-201416718-01

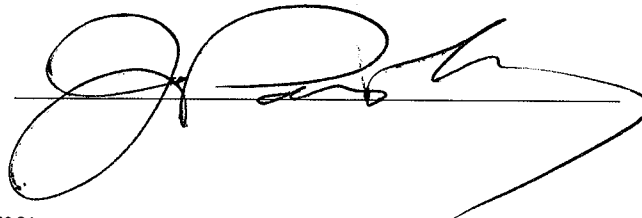
Contractor Name: THE COLORADO COALITION FOR THE HOMELESS

By: 

Name: John Parvensky
(please print)

Title: President + CEO
(please print)

ATTEST: [if required]

By: 

Name: _____
(please print)

Title: _____
(please print)



SCOPE OF WORK
Colorado Coalition for the Homeless
Housing First
SOCSV-2014-16718-01
Exhibit A-1

I. Purpose of Agreement

The purpose of the contract is to establish an agreement and Scope of Services between Denver Department of Human Services (DDHS) and Colorado Coalition for the Homeless. This contract will provide a minimum of 240 units of tenant based rental assistance to chronically homeless individuals and homeless individuals with substance abuse issues. These individuals could also have co-occurring disabilities such as mental health issues and other HUD approved disabilities as long as substance abuse is one of the disabilities. Clients must meet these qualifications in order to obtain and remain in housing.

II. Program Goals & Outcomes

Goal	Outcome
Goal #1: Residential Stability	Outcome #1: 77% of the homeless participants will stay in housing for 6 months or longer.
Goal #2: Increased or stable income	Outcome #2: 65% of participants will start, maintain, or increase their benefits and income. 3% will have earned income
Goal #3: Contractor shall submit accurate and timely invoices in accordance to the requirements of this agreement.	Outcome #3: Invoices and reports shall be completed and submitted on or before the 15 th of each month 100% of the time.

III. Services

- The contractor will provide rental assistance and support services to program participants. Data on community support services will be traced and reported by the contractor on the Annual Progress Report (ARP).
- The Contractor will ensure that each program participant will have a treatment plan that addresses the participant’s supportive service needs.
- CCH will continue to track the following configurations and report back to DHS Quarterly:
- CCH will provide 40 units of project based rental assistance to the chronically homeless with mental illnesses to obtain and remain in housing.

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- CCH will provide 102 units of tenant based rental assistance to the chronically homeless to obtain and remain in housing.
- CCH will provide 49 units of tenant based rental assistance to the chronically homeless and homeless individuals with substance abuse issues, mental health issues and other HUD approved disabilities to obtain and remain in housing.
- CCH will provide 49 units of sponsor based rental assistance to the chronically homeless and homeless individuals with substance abuse issues, these individuals could also have co-occurring disabilities such as mental health and other HUD approved disabilities, as long as substance abuse is one of the disabilities. Clients must meet these qualifications in order to obtain and remain in housing.

IV. Performance Management and Reporting

A. Performance Management

Monitoring will be performed by the program area and Contracting Services. Contractor may be reviewed for:

1. **Program or Managerial Monitoring:** The quality of the services being provided and the effectiveness of those services addressing the needs of the program.
2. **Contract & Financial Monitoring:** Review and analysis of (a) current program information to determine the extent to which contractors are achieving established contractual goals; (b) financial systems & billings to ensure that contract funds are allocated & expended in accordance with the terms of the agreement. Contracting Services, in conjunction with the DHS program area, will manage any performance issues and will develop interventions that will resolve concerns.
3. **Compliance Monitoring:** Monitoring to ensure that the requirements of the contract document, Federal, State and City and County regulations, and DHS policies are being met.

B. Reporting

The following reports shall be developed and delivered to the City as stated in this section.

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Report # and Name	Description	Frequency	Report to be sent to:
1. Annual Progress Report	Update on program participants and outcomes	Annually, to be delivered to DDHS by the 15 th of the second month following the commencement of the contract.	Bernard Brady
2. Summary of progress	Generate a details and summary APR on a quarterly basis for Denver Department of Human Services to demonstrate progress in meeting the goals and objectives of the grant	As requested	Bernard Brady
3. Rent Reasonableness	Justification for rents charged in the project	Prior to contract execution and if changes to HUD established Fair Market Rent (FMR)	Bernard Brady
4. Match Calculation (25% of Award)	Methodology to determine and track value of support services; reported through the data base analysis.	Annually	Bernard Brady
5. Other reports as reasonably requested by the city.	To be determined (TBD)	TBD	Bernard Brady

V. Budget Requirements

- A. Contractor shall provide the identified services for the City under the support of the Denver Department of Human Services using best practices and other methods for fostering a sense of collaboration and communication.

B. Budget

Rental Assistance	\$1,864,824
Administration @ 5%	\$93,241.20
Total Contract Amount	\$1,958,065.20

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- Up to 5% may be invoiced for Administration Costs (Admin Fees). The 5% is calculated based off of the total Grant award and payments must be supported by backup documentation and detail calculations for all Admin Fees. The contractor does not have to bill any amount for Admin Fees and any amount not billed toward Admin Fees can be used for Rental Assistance.
- The contractor will provide a minimum of 240 units for this contract. The number of units may increase or decrease during the year, but not to less than 240 units for any given month. The size of the units allowable through the grant agreement is flexible to meet the needs of the provider and their clients, as long as they follow HUD guidelines for the Continuum of Care grant. The total amount all rent and administration fees will not exceed \$1,958,065.20.
- The rent amount will meet the Rent Reasonableness guidelines established by HUD.
- The rent amount may be adjusted during the year if the contractor submits a written request for change and this change is approved by the Program Manager prior to the new rental rate taking effect.
- The rent may exceed Fair Market Rent (FMR) amounts with a completed Rent Reasonableness form that is approved by the Program Manager.
- The City and County of Denver may request a new or updated Rent Reasonableness form at any time during the contract term.
- Security deposits equaling two month's rent are allowable.
- One month's rent is allowed to be paid for housing units vacated by a program participant. The term "vacated" excludes brief periods of inpatient care (limited to 90 days for each occurrence).

VI. Other Requirements

1. Homeless Management Information System (HMIS):

- a. The Contractor agrees to fully comply with the Rules and Regulations required by the US Dept of Housing and Urban Development (HUD) which govern the Metro Denver Homeless Initiative (MDHI) Homeless Management Information System (HMIS). HUD requires recipients and sub recipients of HEARTH Act Funds to collect electronic data on their homeless clients through HMIS. Programs that receive funding through HEARTH Act that produce an Annual Progress Report (APR) must also collect program level data elements.
- b. The Contractor, in addition to the HUD requirements, shall conform to the HMIS policies established and adopted by the Metro Denver Homeless Initiative (MDHI) and Denver's Road Home (DRH)
- c. The contractor agree to collect and record MDHI/HUD required HMIS information (intake, exit, and annual updates) on each individual/family applying for program participation into HMIS

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information for program participants must be entered into HMIS within five days of providing a program or service to participants and must include program data elements for completing Annual Performance Reports (APRs) to HUD. HMIS should be used to document and provide information on any changes in the number of family members or changes in income. Using HMIS the contractor should, generate a details and summary APR on a quarterly basis for Denver Department of Human Services to demonstrate progress in meeting the goals and objectives of the grant.

- d. Technical assistance and training resources for HMIS are available to the Contractor based on requests by the Contractor and by periodic assessments of participation, compliance and accuracy of data collection. The contractor is required to participate in the HMIS Users Group meetings.
- e. The Contractor will be required to collect data on all homeless clients its organization serves and enter this data into the HMIS.
- f. Security - All workstations, desktops, laptops, and servers connected to the sub recipient's network or computers accessing the HMIS through a Virtual Private Network (VPN) must comply with the baseline security requirements. The sub recipient's HMIS computers and networks must meet the following standards:
 - Secure location
 - Workstation username and password
 - Virus protection with auto update
 - Locking password protected screen saver
 - Individual or network firewall
 - PKI-certificate installed or static IP address
 - Data Quality Standards
 - Sub recipients must maintain an overall program Data Quality completeness score of 95% or higher.
 - Sub recipients must maintain an overall program capacity score of 85% or higher.
 - Sub recipients must enter HMIS data (program enrollments and services) into the system within five business days of the actual enrollment or service provided date.
 - *(City and County of Denver, Department of Human Services)* reserves the right to run Data Quality reports on sub recipient programs on a monthly basis.
 - *(City and County of Denver, Department of Human Services)* reserves the right to participate in on-site HMIS audits.

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- *(City and County of Denver, Department of Human Services)* reserves the right to conduct Data Timeliness tests on sub recipient programs in HMIS.
- *(City and County of Denver, Department of Human Services)* reserves the right to run detailed APRs (displaying client-level data) and summary APRs (displaying aggregate-level data) as necessary to review and monitor contractor's program data quality and progress toward achieving annual program goals and outcomes for HUD APR requirements.

2. Advisory Board:

The Contractor shall, in order to promote client participation in the development of programs and services for the homeless, establish and maintain an advisory board that shall include at least one (1) homeless person receiving services from Colorado Coalition for the Homeless.

3. Staff Changes:

If the Contractor has changes in staff that may affect the program outcomes or the processing of invoices, the changes should be reported to DHS within 30 days of the change.

EXHIBIT E
Business Associate Terms -HIPAA/HITECH

1. GENERAL PROVISIONS AND RECITALS

1.1 The parties agree that the terms used, but not otherwise defined below, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they exist or may hereafter be amended.

1.2 The parties agree that a business associate relationship (as described in 45 CFR §160.103) under HIPAA, the HITECH Act, and the HIPAA regulations arises between the CONTRACTOR and CITY to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of CITY.

1.3 CITY wishes to disclose to CONTRACTOR certain information, some of which may constitute Protected Health Information ("PHI") as defined below, to be used or disclosed in the course of providing services and activities.

1.4 The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they exist or may hereafter be amended.

1.5 The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that impose more stringent requirements with respect to privacy of PHI.

1.6 The parties understand that the HIPAA Privacy and Security rules apply to the CONTRACTOR in the same manner as they apply to a covered entity. CONTRACTOR agrees to comply at all times with the terms of this Agreement and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they exist or may hereafter be amended, with respect to PHI.

2. DEFINITIONS.

2.1 "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of that information.

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2.2 "Agreement" means the attached Agreement and its exhibits to which these terms additional are incorporated by reference.

2.3 "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

2.03.1 Breach excludes:

- a. any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or CITY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
- b. any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI, or organized health care arrangement in which CITY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner disallowed under the HIPAA Privacy Rule.
- c. a disclosure of PHI where CONTRACTOR or CITY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

2.03.2 Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b. The unauthorized person who used the PHI or to whom the disclosure was made;
- c. Whether the PHI was actually acquired or viewed; and
- d. The extent to which the risk to the PHI has been mitigated.

2.4 "CONTRACTOR" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

EXHIBIT E

2.5 "CITY" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

2.6 "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.7 "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.8 "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.

2.9 "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.10 "Immediately" where used here shall mean within 24 hours of discovery.

2.11 "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

2.12 "Parties" shall mean "CONTRACTOR" and "CITY", collectively.

2.13 "Physical Safeguards" are physical measures, policies, and procedures to protect CONTRACTOR's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

2.14 "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

2.15 "Protected Health Information" or "PHI" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.16 "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule at 45 CFR §164.103.

2.17 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

2.18 "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.

2.19 "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

EXHIBIT E

2.20 "Subcontractor" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.21 "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.

2.22 "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services ("HHS") in the guidance issued on the HHS Web site.

2.23 "Use" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

3. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE.

3.1 CONTRACTOR agrees not to use or further disclose PHI that CITY discloses to CONTRACTOR except as permitted or required by this Agreement or by law.

3.2 CONTRACTOR agrees to use appropriate safeguards, as provided for in this Agreement, to prevent use or disclosure of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY, except as provided for by this Contract.

3.3 CONTRACTOR agrees to comply with the HIPAA Security Rule, at Subpart C of 45 CFR Part 164, with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY.

3.4 CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of this Agreement that becomes known to CONTRACTOR.

3.5 CONTRACTOR agrees to immediately report to CITY any Use or Disclosure of PHI not provided for by this Agreement that CONTRACTOR becomes aware of. CONTRACTOR must report Breaches of Unsecured PHI in accordance with 45 CFR §164.410.

3.6 CONTRACTOR agrees to ensure that any subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such information.

3.7 To comply with the requirements of 45 CFR §164.524, CONTRACTOR agrees to provide access to CITY, or to an individual as directed by CITY, to PHI in a Designated Record Set within fifteen (15) calendar days of receipt of a written request by CITY.

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3.8 CONTRACTOR agrees to make amendment(s) to PHI in a Designated Record Set that CITY directs or agrees to, pursuant to 45 CFR §164.526, at the request of CITY or an Individual, within thirty (30) calendar days of receipt of the request by CITY. CONTRACTOR agrees to notify CITY in writing no later than ten (10) calendar days after the amendment is completed.

3.9 CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of CITY, available to CITY and the Secretary in a time and manner as determined by CITY, or as designated by the Secretary, for purposes of the Secretary determining CITY'S compliance with the HIPAA Privacy Rule.

3.10 CONTRACTOR agrees to document any Disclosures of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY, and to make information related to such Disclosures available as would be required for CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.11 CONTRACTOR agrees to provide CITY, or an Individual as directed by CITY, and in a timely and manner to be determined by CITY, that information collected in accordance with the Agreement, in order to permit CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.12 CONTRACTOR agrees that, to the extent CONTRACTOR carries out CITY's obligation(s) under the HIPAA Privacy and/or Security rules, CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to CITY in the performance of such obligation(s).

3.13 CONTRACTOR shall work with CITY upon notification by CONTRACTOR to CITY of a Breach to properly determine if any Breach exclusions exist as defined below.

4. SECURITY RULE.

4.1 CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR §164.308, §164.310, §164.312, and §164.316 with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY. CONTRACTOR shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

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4.2 CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained here.

4.3 CONTRACTOR shall immediately report to CITY any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI as below and as required by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

5.1 Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify CITY of such Breach, however, both parties may agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR §164.412.

5.1.1 A Breach shall be treated as discovered by CONTRACTOR as of the first day on which such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known to CONTRACTOR.

5.1.2 CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

5.2 CONTRACTOR shall provide the notification of the Breach immediately to the CITY DHS Executive Director or other designee.

5.2.1 CONTRACTOR'S initial notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

5.3 CONTRACTOR'S notification shall include, to the extent possible:

5.03.1 The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

5.03.2 Any other information that CITY is required to include in the notification to each Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify CITY, or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR §164.410 (b) has elapsed, including:

a. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

EXHIBIT E

- b.** A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- c.** Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
- d.** A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
- e.** Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

5.4 CITY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR §164.404, if at the sole discretion of the CITY, it is reasonable to do so under the circumstances.

5.5 In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all required notifications to CITY, and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

5.6 CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR §164.402 to demonstrate that a Breach did not occur.

5.7 CONTRACTOR shall provide to CITY all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit CITY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to CITY.

5.8 CONTRACTOR shall continue to provide all additional pertinent information about the Breach to CITY as it becomes available, in reporting increments of five (5) business days after the prior report to CITY. CONTRACTOR shall also respond in good faith to all reasonable requests for further information, or follow-up information, after report to CITY, when such request is made by CITY.

EXHIBIT E

5.9 In addition to the provisions in the body of the Agreement, CONTRACTOR shall also bear all expense or other costs associated with the Breach and shall reimburse CITY for all expenses CITY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs or expenses associated with addressing the Breach.

6. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

6.1 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, CITY as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by CITY.

6.2 CONTRACTOR may use PHI that CITY discloses to CONTRACTOR, if necessary, for the proper management and administration of the Agreement.

6.3 CONTRACTOR may disclose PHI that CITY discloses to CONTRACTOR to carry out the legal responsibilities of CONTRACTOR, if:

6.3.1 The Disclosure is required by law; or

6.3.2 CONTRACTOR obtains reasonable assurances from the person or entity to whom/which the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person or entity and the person or entity immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.

6.4 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

6.5 CONTRACTOR may use and disclose PHI that CITY discloses to CONTRACTOR consistent with the minimum necessary policies and procedures of CITY.

7. OBLIGATIONS OF CITY.

7.1 CITY shall notify CONTRACTOR of any limitation(s) in CITY'S notice of privacy practices in accordance with 45 CFR §164.520, to the extent that such limitation may affect CONTRACTOR'S Use or Disclosure of PHI.

7.2 CITY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR'S Use or Disclosure of PHI.

EXHIBIT E

7.3 CITY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that CITY has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of PHI.

7.4 CITY shall not request CONTRACTOR to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by CITY.

8. BUSINESS ASSOCIATE TERMINATION.

8.01 Upon CITY'S knowledge of a material breach or violation by CONTRACTOR of the requirements of this Contract, CITY shall:

8.01.1 Provide an opportunity for CONTRACTOR to cure the material breach or end the violation within thirty (30) business days; or

8.01.2 Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Agreement is feasible.

8.02 Upon termination of the Agreement, CONTRACTOR shall either destroy or return to CITY all PHI CONTRACTOR received from CITY and any and all PHI that CONTRACTOR created, maintained, or received on behalf of CITY in conformity with the HIPAA Privacy Rule.

8.02.1 This provision shall apply to all PHI that is in the possession of subcontractors or agents of CONTRACTOR.

8.02.2 CONTRACTOR shall retain no copies of the PHI.

8.02.3 In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to CITY notification of the conditions that make return or destruction infeasible. Upon determination by CITY that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Agreement to the PHI and limit further Uses and Disclosures of the PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains the PHI.

8.03 The obligations of this Agreement shall survive the termination of the Agreement.