

NINTH AMENDATORY AGREEMENT

THIS NINTH AMENDATORY AGREEMENT (the “Amendment”) is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **U.S. MOTELS DENVER NORTH, INC.**, a Colorado corporation, whose address is 10 E. 120th Avenue, Northglenn, Colorado 80233 (“Provider” or “Contractor”), collectively the “Parties.”

RECITALS:

A. The Parties entered into an agreement dated January 30, 2018, an Amendatory Agreement dated June 5, 2018, a Second Amendatory Agreement dated September 11, 2018, a Third Amendatory Agreement dated October 11, 2018, a Fourth Amendatory Agreement dated November 27, 2018, a Fifth Amendatory Agreement dated June 14, 2019, a Sixth Amendatory Agreement dated December 13, 2019, a Seventh Amendatory Agreement dated July 13, 2020, and an Eight Amendatory Amendment dated October 7, 2020 to provide short-term shelter services (collectively, the “Agreement”).

B. The Agreement expired on by its terms on December 31, 2020, and rather than enter into a new agreement, the Parties desire to revive and reinstate all terms and conditions of the Agreement as they existed prior to the expiration of the term and to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Effective upon execution, all references to Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, and A-8 in the existing Agreement shall be amended to read “Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, and A-9, as applicable.” Exhibit A-9 is attached and will control from and after the date of execution of this Amendment

2. Section 3 of the Agreement, entitled “**TERM**,” is amended by deleting the section in its entirety and replacing it with the following:

“3. **TERM**: The Agreement will commence on **January 1, 2018** and will expire on **December 31, 2021** (the “Term”). Subject to the Executive Director’s prior written authorization, the Contactor shall complete any

work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.”

3. Subsection 4.d.1. of the Agreement, entitled “**Maximum Contract Amount**” is amended to read as follows:

“(1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **One Million Seven Hundred Twenty-One Thousand and No/100 Dollars (\$1,721,000.00)** (the “Maximum Contract Amount”). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Contractor beyond that specifically described in **Exhibit A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, and A-9**, as applicable. Any services performed beyond those in **Exhibit A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, and A-9**, as applicable, are performed at Contractor’s own risk and without authorization under the Agreement.”

4. Except as herein amended, the Agreement continues in effect, and is affirmed and ratified in each and every particular.

5. This Amendment will not be 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.

List of Exhibits

Exhibit A-9 – Scope of Work

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

Contract Control Number: HOST-202057286-09 Jaggaer/
SOCSV 201738950-09 Alfresco
Contractor Name: U.S. MOTELS DENVER NORTH, INC.

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:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:

HOST-202057286-09 Jaggaer
SOCSV 201738950-09 Alfresco

Contractor Name:

U.S. MOTELS DENVER NORTH, INC.

By:  DocuSigned by:
417863AA87DD45D...

Name: BRUCE RAHMANI
(please print)

Title: Member Manager
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

I. Purpose of Agreement

The purpose of the contract is to establish an agreement and Scope of Work between Department of Housing Stability (HOST) and U.S. Motels Denver North, Inc. to provide units for short term shelter for individuals and families when the City's emergency shelter beds are full through the established voucher program.

II. Services

- A.** Individuals and families with children will be provided with safe accommodations at the Super 8 Motel location at 5888 North Broadway, Denver, Colorado, and as an overflow capacity option, at the Comfort Inn location at 401 E 58th Ave, Denver, Colorado. Families are defined as at least one adult with a minor child in their legal custody.
1. Facility will be clean and free of drugs, violence, and illegal activities.
 2. Guest rooms shall have basic and adequate furnishings, such as a bed, chair, table, lamp, clean pillows, blankets, sheets, towels, washcloths, toilet paper, facial tissue, soap, and private window coverings.
 3. Complimentary breakfast.
 4. Each room will have a private shower or bathing facilities complete with hot and cold running water. Bathroom toilets will flush.
 5. Facilities will be clean and will have no infestations of vermin or insects. The facility will provide regular pest prevention.
 6. Each guest room will have a functional telephone.
 7. Heating and cooling systems will be fully operational.
 8. The contracted room rate will include electrical and water, including washers and dryers (or access to laundry services) for guests.
 9. Room doors and windows will be intact and have functional locks. Upper floor stairways, windows and doors will have appropriate safety features for the protection of young children.
 10. Guest rooms and common areas will be cleaned no less than once every other day. This includes; trash removal, vacuuming of carpets, cleaning hard surfaces, sanitizing, and cleaning bathrooms and replacement of all used sheets and towels with clean sets.
 11. Facilities must be up to code on all health and safety issues.
- B.** Any damages to the facility and/or surrounding property must be addressed in a timely manner.
- C.** Random checks of any unoccupied rooms and public areas by HOST staff will be permitted with or without notice.
- D.** U.S. Motels Denver North, Inc. must notify HOST of any legal citations and/or building closures and changes that would affect room availability within 72 hours.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- E. U.S. Motels Denver North, Inc. will participate in quarterly meetings with HOST and community partners. All parties are to collaborate in a productive manner to ensure workflow and processes are in place and agreed upon.

III. Roles and Responsibilities for both parties

- A. Contractor will work with City to host any city-designated sensitivity training on an annual basis.
- B. Contractor will provide any online modular sensitivity training developed and provided by the City to all new direct-service staff within 15 days of hire date.
- C. Contractor will assure direct-service staff complete training refresher on a biennial basis.
- D. The City will provide signage that includes information about the City and County of Denver's Anti-Discrimination Office.

IV. Process and Outcome Measures (Insert appropriate Requirements)

A. Process Measures

1. Contractor will provide a safe and clean facility for clientele that is free of drugs, violence, and illegal activities.
2. Contractor will comply with all health and safety measures to include repairs, sanitation, and inspections to include any and all applicable laws.
3. Contractor facility will meet all Americans with Disabilities Act (ADA) guidelines and State and City rules and regulations. Certified service animals shall be allowed to accompany their disabled owner.
4. Random checks of any unoccupied rooms and public areas by HOST staff will be permitted with or without notice.

B. Outcome Measures

1. HOST will receive fewer than 2 complaints per month.
2. Certificate of occupancy and compliance with ADA requirements must be valid 100% of the time.
3. Contractor will ensure timely correction of any issues HOST finds in the random room checks of vacant rooms and public areas.

V. Performance Management and Reporting

A. Performance Management

Monitoring will be performed by the program area and other designated City staff throughout the term of the agreement. 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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

2. **Contract Monitoring:** Review and analysis of current program information to determine the extent to which contractors are achieving established contractual goals. HOST will provide performance monitoring and reporting reviews. City staff will manage any performance issues and will develop interventions to resolve concerns.
3. **Compliance Monitoring:** Will ensure that the terms of the contract document are met, as well as Federal, State and City legal requirements, standards and policies.
4. **Financial Monitoring:** Will ensure that contracts are allocated and expended in accordance with the terms of the agreement. Contractor is required to provide all invoicing documents for the satisfaction of the HOST Financial Services Team. HOST will review the quality of the submitted invoice monthly.

B. Reporting

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

Report	Description	Frequency	Reports to be sent to
Contract Summary Report	Report shall demonstrate all functions performed, and how services provided met the overall goals of this agreement. Other data will include total budget per line item, amount spent, and an explanation as to unspent funds, etc.	Within 30 days after Term End Date of this contract agreement	Program Officer
Reporting of all customer concerns and problems.	Ability to work with county staff and clientele on a face-to-face basis and contact HOST as appropriate on any concerns or problems within 24 hours.	As needed	Program Officer
Contact HOST if operations are impacted due to fires, major damage, etc.	Notify HOST contact person in the event of issues regarding the operation of the facility.	As Needed	HOST Designated Point-of- Contact



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

VI. Budget

Invoices and reports shall be completed and submitted on or before the 15th of each month following the month services were rendered 100% of the time. Contractor shall use HOST's preferred invoice template, if requested. Invoicing supporting documents must meet HOST requirements.

Invoices shall be submitted to HOST at hostap@denvergov.org or by US Mail to:

Attn: Department of Housing Stability
 Financial Services Team
 201 W. Colfax Ave.
 Denver CO 80202

Contractor:	U.S. Motels Denver North, Inc.
Contract Number:	SOCSV 2017-38950-07 Alfresco, HOST 202TBD-08 Jaggaer
Program Name:	Motel Voucher Program
2020 NIGHTLY RATE	
Type	Rate
Rate per room for Individuals	\$109.00 per night
Rate per room for Families	\$109.00 per night
Total Budget	\$500,000.00



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

VII. HIPAA/HITECH (Business Associate Terms)

1. GENERAL PROVISIONS AND RECITALS

- 1.01 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.
- 1.02 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 the CITY to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of CITY.
- 1.03 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.
- 1.04 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.
- 1.05 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.
- 1.06 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.

- 2.01 "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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

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

203 "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:

1. 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.
2. 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.
3. 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.

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



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- 2.05 "CITY" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.
- 2.06 "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.
- 2.07 "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.
- 2.08 "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.
- 2.09 "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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- 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.
- 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.

- 301 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.
- 302 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.
- 303 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.
- 304 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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- 3.05 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.
- 3.06 CONTRACTOR agrees to ensure that any of its subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to comply with the applicable requirements of Section 164 Part C by entering into a contract or other arrangement.
- 3.07 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.
- 3.08 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.
- 3.09 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 information in a time and manner to be determined by CITY 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).



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

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.

4.01 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, §164.314 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.

4.02 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.

4.03 CONTRACTOR shall immediately report to CITY any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI as described in 5. BREACH DISCOVERY AND NOTIFICATION below and as required by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

5.01 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.

5.01.1 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.

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

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

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

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



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- 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;
 - 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.
- 5.04 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.
- 5.05 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.
- 5.06 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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

- 507 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.
- 508 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.
- 509 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.

- 601 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.
- 602 CONTRACTOR may use PHI that CITY discloses to CONTRACTOR, if necessary, for the proper management and administration of the Agreement.
- 603 CONTRACTOR may disclose PHI that CITY discloses to CONTRACTOR to carry out the legal responsibilities of CONTRACTOR, if:
 - 6.03.1 The Disclosure is required by law; or
 - 6.03.2 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.
- 604 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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

605 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.

701 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.

702 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.

703 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.

704 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.

801 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.

802 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.



U.S. Motels Denver North, Inc.
SCOPE OF WORK
SOCV 201738950-09 Alfresco
HOST 202057286-09 Jaggaer

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.

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

9 SUBSTANCE ABUSE (42 C.F.R., Part 2)

Provider will also comply with all provisions of 42 C.F.R., Part 2 relating to substance abuse treatment and records.