

REVIVAL AND SECOND AMENDATORY AGREEMENT

THIS REVIVAL AND SECOND AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (hereinafter referred to as the “City”), and **THE COLORADO COALITION FOR THE HOMELESS**, a Colorado nonprofit, whose address is 2111 Champa Street, Denver, CO 80205 (the “Contractor”), jointly “the Parties” and individually a “Party.”

WHEREAS, the Parties entered into an Agreement dated July 1, 2020, and a Revival and Amendatory Agreement dated September 30, 2020, to provide necessary staffing to support people experiencing homelessness by providing medical screening for symptoms of COVID-19 upon entry to shelter facilities in response to the COVID-19 public health crisis (the “Agreement”); and

WHEREAS, the Agreement expired by its terms on December 31, 2020, and rather than enter into a new agreement, the Parties wish 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 mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above and amend the Agreement as follows:

1. Effective January 1, 2021, all references to Exhibits A and A-1 in the existing Agreement shall be amended to read Exhibits A, A-1, and A-2, as applicable. Exhibit A-2 is attached and will control from and after January 1, 2021.

2. Section 2 of the Agreement, titled “**SERVICES TO BE PERFORMED**,” is amended to read as follows:

“**2. SERVICES TO BE PERFORMED**: As the Director directs, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth in the attached **Exhibit A, Scope of Work**, to the City’s satisfaction. The City may reduce services by terminating specific budget line items in accordance with the terms of the Agreement and its **Exhibit A**. The Contractor is ready, willing, and able to provide the services required by this Agreement. The Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.”

3. Section 3 of the Agreement, titled “**TERM**,” is amended to read as follows:

“3. The Agreement will commence on April 1, 2020, and will expire, unless sooner terminated, on June 30, 2021 (the “Term”).”

4. Section 4.4.1 of the Agreement, under the title “**Maximum Contract Amount**,” is amended to read as follows:

“4.4.1. Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed One Million One Hundred Ninety-Three Thousand Two Hundred Thirty Dollars (\$1,193,230.00) (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 the Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at the Contractor’s risk and without authorization under the Agreement.”

5. Section 4 of the Agreement, titled “**COMPENSATION AND PAYMENT**,” is amended to add a new subsection 4.5 as follows:

“4.5. **Budget Modifications**: Budget line items may only be terminated or modified in accordance with City procedures and policies, and the Maximum Contract Amount shall be reduced proportionately with any authorized termination or modification of a budget line item. Any modification to **Exhibit A** that requires an increase in the Maximum Contract Amount shall be evidenced by a written Amendatory Agreement prepared and executed by both Parties in the same manner as this Agreement.”

6. Section 6 of the Agreement, titled “**TERMINATION**,” is amended to add a new subsection 6.6 as follows:

“6.6. The City reserves the unilateral right, effective upon thirty (30) days prior written notice to the Contractor, to suspend or terminate, in whole or in part, specific, enumerated budget line items contained within the attached **Exhibit A**. Any order to terminate or suspend budget line items in **Exhibit A** shall not alter or affect the terms or performance of the Agreement with respect to services or deliverables not terminated or suspended, and all remaining obligations shall remain in full force and effect. Notwithstanding anything to the contrary contained herein, the Contractor shall not be entitled to compensation for any deliverables or services performed during any period in which the City has directed that the line item and its respective services or deliverables be suspended or terminated.”

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

8. This Revival and Second 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.

Exhibit List

Exhibit A-2

REST OF PAGE INTENTIONALLY LEFT BLANK

Contract Control Number: GENRL-202057219-02 [HOST-202054658-02]
Contractor Name: THE COLORADO COALITION FOR THE HOMELESS

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:
Contractor Name:

GENRL-202057219-02 [HOST-202054658-02]
THE COLORADO COALITION FOR THE HOMELESS

DocuSigned by:
John Parvensky
By: CB0DB8BE0E684A5...

John Parvensky
Name: _____
(please print)

President and CEO
Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Colorado Coalition for the Homeless

SCOPE OF WORK

Staffing for Screening and Triage at Shelters

GENRL-202057219-02

I. Purpose of Agreement

The purpose of this contract agreement is to provide an award for \$386,769.00 through the Department of Housing Stability (“HOST”). These funds will be provided to The Colorado Coalition for the Homeless (“CCH”) to provide staffing to support people experiencing homelessness in response to the COVID-19 public health crisis. Such staffing will primarily be used to prevent the spread of COVID-19 in congregate and non-congregate shelter services throughout locations in Denver through screening clinical triage for those guests identified to be displaying concerning symptoms and needing further assessment or referral to testing. This mobile medical screening and triage will serve to protect healthy congregate shelter guests from exposure to illness, as well as to serve to connect symptomatic shelter guests to appropriate resources.

II. Services

A. CCH is providing COVID-19 vaccine support, clinical screening and triage services on-site at shelters identified by the Denver COVID-19 Joint Task Force and consists of two main components

1. **Mobile training and technical assistance for shelter screening** Between the hours of 8:00 a.m. and 4:00 p.m., or alternative hours as determined by need, CCH staff will provide mobile training, technical assistance, and support to shelter staff performing screening of all guests entering auxiliary shelters operated in partnership with the City of Denver. Training and technical assistance will be provided by a medical assistant experienced in the screening process including the correct use of temperature screening and symptom-based screening questions. This resource will be mobile and available to all shelter locations based on need as determined by the Denver COVID-19 Joint Task Force. Screening questions will be developed in accordance to public health guidance, and together with input from HOST and Denver Department of Public Health and Environment (DDPHE).
2. **Clinical triage and referral to testing:** For guests of the shelters who were identified as experiencing symptoms of illness, they will be directed to an on-site triage/clinic for further assessment of symptoms. Next, CCH clinical staff will make decisions for best next step for treatment and housing, including referrals to protective action rooms for at-risk individuals, referrals for COVID-19 testing, and referrals to activated respite rooms for those guests in need of isolation.
3. **COVID-19 vaccine support:** To help reduce the spread of COVID-19, CCH will work in partnership with DDPHE, to provide staffing and logistical support for vaccination of persons experiencing homelessness within a variety of homeless services settings, including but not limited to congregate shelters, non-congregate shelters and protective action sites, day shelters, and street-level encampments.

B. CCH will provide these services at shelter sites identified by the Denver COVID-19 Joint Task Force in order to monitor possible COVID-19 symptoms in shelters and mitigate outbreak potential in shelters. Evaluation criteria for sites identified for screening and triage services include

1. **High Turnover**—shelters which experience significant foot traffic and turnover of guests on a daily/nightly basis

Exhibit A-2

HOST 202054658-00(Parent)

HOST-202055726-01 (HOST-202054658-01 1st Amendment)

GENRL-202057219-02 (HOST-202054658-02 2nd Amendment)



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2. **Outbreaks**—shelters identified by other testing teams (including DDPHE and Denver Public Health (DPH)) as active or potential outbreak sites
- C. Triage sites for the mobile triage program will be identified in coordination with the Denver COVID-19 Joint Task Force. A decision to end services at a shelter site or to begin services at a shelter site must be approved in writing (including email) by the Denver COVID-19 Joint Task Force.
- D. HOST support includes additional staffing to cover shifts, up to 7 days a week at shelter screening locations, and at the mobile COVID triage clinic for people experiencing homelessness. The support in this scope of work also covers the cost of PPE and some supplies for staff conducting screening, triage and testing.
- E. CCH staff providing support to guests in activated respite and protective action as part of the COVID response are reimbursed for services under a different contract.
- F. The costs of COVID testing and testing equipment are not included in this contract.
- G. CCH Staffing levels are subject to review and change as needed. If for budget reasons, the City needs to reduce staff at a site, the City will give 30-day notice for any changes.
- H. CCH will adhere to all Federal, State, and local regulations regarding appropriate costs, nonduplication of benefit, and reimbursement. In order to ensure adherence to applicable guidelines for reimbursement – CCH will adjust their invoicing against this contract to subtract any amounts otherwise billed to other sources and provide documentation of such as requested.

III. Roles and Responsibilities for both parties

A. Contractor Roles:

1. Contractor will provide staffing in accordance with this scope of work for shelters for the duration of the federal emergency, in accordance with this scope of work for screening, testing and triage.
2. Contractor will work with City to host any city-designated sensitivity training on an annual basis.
3. 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.
4. Contractor will assure direct-service staff complete training refresher on a biennial basis.
5. The City will provide signage that includes information about the City and County of Denver's Anti-Discrimination Office.

B. City Roles:

1. HOST will coordinate between CCH and City's Emergency Operation Center ("EOC")
2. HOST will partner with CCH and other appropriate organizations and EOC

Exhibit A-2

HOST 202054658-00(Parent)

HOST-202055726-01 (HOST-202054658-01 1st Amendment)

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Staffing for Screening and Triage at Shelters

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branches to develop protocols for referrals to screening, triage and testing at auxiliary shelters.

IV. Process and Outcome Measures

A. Daily census reporting

1. Total number seen for further triage
 - a. Number referred for COVID testing
 - b. Number referred to Protective action
 - c. Number referred to activated respite

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.
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
Daily Report	Report shall demonstrate achievement of Outcome measures in Section IV.	Daily – Due by 7:30am each day for the previous day's activities	CCH will submit daily reports to jennifer.biess@denvergov.org

Exhibit A-2

HOST 202054658-00(Parent)

HOST-202055726-01 (HOST-202054658-01 1st Amendment)

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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	HOST Program Officer Angie Nelson at angela.nelson@denvergov.org
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VI. Budget

- A.** 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

- B.** In the event that the COVID-19 crisis necessitates a greater length of time providing screening and triage services, CCH will need to receive written approval from the Director of HOST in order to extend services. Upon approval, HOST will work to amend the contract agreement accordingly to meet the expanded length of time. If the Federal COVID-19 Emergency Declaration ends prior to the end of this contract term, HOST will work with CCH to identify whether these services should extend beyond the emergency declaration, or whether to terminate the contract at the end of the Federal COVID Emergency Declaration.

HOST-202054658-00: \$487,712

HOST-202055726-01 (HOST-202054658-01): \$318,749

GENRL-202057219-02 (HOST-202054658-02): \$386,769.00

GENRL-202057219-02 (HOST-202054658-02) TOTAL: \$1,193,230.00

Exhibit A-2

HOST 202054658-00(Parent)

HOST-202055726-01 (HOST-202054658-01 1st Amendment)

GENRL-202057219-02 (HOST-202054658-02 2nd Amendment)



DENVER
HOUSING STABILITY

Colorado Coalition for the Homeless

SCOPE OF WORK

Staffing for Screening and Triage at Shelters

GENRL-202057219-02

Contractor Name: Colorado Coalition for the Homeless		
Term: 4/1/2020 – 6/30/2021		
Contract Number: HOST 202054658-02		
Program Name: Additional Staffing for Screening & Triage at Shelter		
Budget Categories	Budgeted Amount	NARRATIVE
Direct Costs		
Salaries and Fringe		
Staff Salaries	\$793,402.00	Full-time and part-time employees' salaries and wages will be reimbursed at cost. HOST will not pay for bonuses, severances, or payouts of leave when an employee separates from their job.
Fringe and Payroll Taxes	\$222,153.00	Fringe benefits and payroll taxes will be reimbursed at cost. Fringe includes employer portion of the following items: payroll taxes (Social Security, Medicare, Federal unemployment, and state unemployment), insurance (medical, dental, vision, disability, and workers comp) and pension or retirement plans. This list is not all inclusive and any Fringe not included on this list would require written preapproval from the Program Manager.
Total Salaries and Fringe	\$1,015,555.00	
Other Direct Costs		
Program Supplies	\$19,473.00	Items required to serve clients, including PPE (gloves, masks, disinfectant, hand sanitizer, etc.); thermometers and other COVID-19 screening equipment.
Indirect	\$158,202.00	Indirect Cost Rate at 16.8% of Direct Salaries and Fringe Costs *Note: CCH's indirect cost rate changed beginning 1/1/2021 from 15% to 16.8%
TOTAL	\$1,193,230.00	

Exhibit A-2

HOST 202054658-00(Parent)

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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.

Exhibit A-2

HOST 202054658-00(Parent)

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- 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.
- 2.02 "Agreement" means the attached Agreement and its exhibits to which these additional terms are incorporated by reference.
- 2.03 "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.

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HOST 202054658-00(Parent)

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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.

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

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

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

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

209 "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).

Exhibit A-2

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- 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.
- 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.

Exhibit A-2

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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.
- 305 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.
- 306 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.
- 307 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.
- 308 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.
- 309 CONTRACTOR agrees to make internal practices, books, and records, including

Exhibit A-2

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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).
- 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.

- 401 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.
- 402 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.
- 403 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

Exhibit A-2

HOST 202054658-00(Parent)

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by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

501 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.

502 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.

503 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;
- 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;

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- 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.
- 504 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.
- 505 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.
- 506 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.
- 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.

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- 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, or for the specific individual to whom the PHI relates, 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.
- 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

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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, and to the extent permitted by law, 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, except for PHI necessary to treat or provide services for the specific individual to whom the PHI relates.

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.

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