

**West Volusia Hospital Authority
BOARD OF COMMISSIONERS SPECIAL MEETING
March 3, 2022 5:00 p.m.
DeLand City Hall
120 S. Florida Ave., DeLand, FL**

AGENDA

1. Call to Order Regular meeting
2. Approval of Proposed Agenda
3. Citizens Comments
4. Commissioner Discussion
 - a. Draft Request for Proposal (RFP) for WVHA Accounting and/or Administrative Services (attached)
 - b. Option to separate Draft into 2 separate RFPs
 - c. Option to outsource Administrative Services in Ongoing Contracts with Court Reporter or similar agency and Temporary Staffing Agency
 - d. Next steps to Finalizing RFP
 - e. Planning for Distribution of RFP and where to post or advertise
 - f. Identifying Potential Applicants
5. Commissioner Comments
6. Adjournment

RFP REGISTRATION

You MUST register using this form in order to receive notice of any addenda to these documents. Please fax the completed form to the WVHA Administrator as soon as possible. It is the vendor's responsibility to verify if addenda have been issued.

RFP Title: Accounting and/or Administrative Services for WVHA

Receiving Period: Friday, March 18, 2022 starting at 10:00 a.m.
Eastern

Proposals are due Wednesday, April 27, 2022 prior to 12:01 p.m.
Eastern

Proposals to be opened: 4:00 p.m. Eastern,
Wednesday, April 27, 2022

This form is for bid registration only. Please scroll down for additional information.

Special Instructions: WVHA would prefer to receive responses that propose to provide both the listed Accounting and Administrative functions from a single entity, but will also consider responses that propose to provide only Accounting or only the Administrative duties.

**BIDDER REGISTRATION
FAX THIS FORM BACK IMMEDIATELY
FAX: (386) 738-5351**

Carefully complete this form and mail or fax it to the WVHA Administrator. You must submit one form for each bid that you are registering for.

Company Name: _____

Contact Person: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____ E-mail: _____

Cut along the outer border and affix this label to your sealed bid envelope to identify it as a "Sealed Bid". Be sure to include the name of the company submitting the bid where requested.

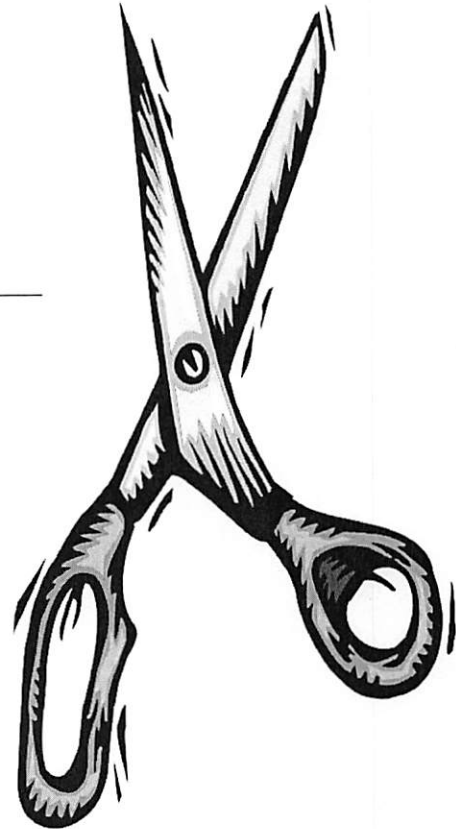
SEALED RFP • DO NOT OPEN

RFP TITLE: Accounting and/or Administrative Services

DUE DATE/TIME: Wednesday, April 27, 2022 prior to 12:01 p.m.

SUBMITTED BY: _____

DELIVER TO: West Volusia Hospital Authority
Voloria Manning, Secretary of WVHA
c/o Dreggors, Rigsby & Teal, P.A.
1006 N Woodland Blvd
DeLand, Florida 32720



WEST VOLUSIA HOSPITAL AUTHORITY BOARD OF COMMISSIONERS

REQUEST FOR PROPOSAL ACCOUNTING AND ADMINSTRATIVE SERVICES for WVHA

Sealed proposals will be received in the Authority Office, **Wednesday, April 27, 2022 prior to 12:00p.m. Eastern**

Attached are important instructions and specifications regarding responses to this Request for Proposal. Failure to follow these instructions could result in Proposer disqualification.

Questions regarding this proposal must be in writing and must be sent to Jennifer Cohen, WVHA Chair of Board, email: jcohen@westvolusiahospitalauthority.org; fax (386) 738-5351. All questions must be received by March 25, 2022.

Proposals may be mailed, express mailed or hand delivered to:

**West Volusia Hospital Authority
Voloria Manning, Secretary of WVHA
c/o Dreggors, Rigsby & Teal, P.A.
1006 N Woodland Blvd
DeLand, Florida 32720**

STATEMENT OF NO PROPOSAL

If you do not intend to submit a proposal, please complete the information below and return this form to the address above.

- | | |
|--|--|
| <input type="checkbox"/> Insufficient time to respond | <input type="checkbox"/> Unable to meet specifications |
| <input type="checkbox"/> Schedule would not permit us to perform | <input type="checkbox"/> Do not offer this product |
| <input type="checkbox"/> Specifications unclear | <input type="checkbox"/> Other (please specify below) |

Company Name: _____ Date: _____
Signature: _____ Telephone Number: _____

INTRODUCTION

The West Volusia Hospital Authority (WVHA), an independent special tax district, is soliciting proposals from qualified firms to administer in whole or in part, the following functions. WVHA would prefer to receive responses that propose to provide both the listed Accounting and Administrative functions from a single entity, but will also consider responses that propose to provide only Accounting or only the Administrative duties.

Accounting functions:

1. Compile the annual and month-end balance sheets (modified cash basis) and the related statements of revenue and expenses (modified cash basis) of the West Volusia Hospital Authority, and issue accountant's reports thereon in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.
 - a. Facilitate all WVHA banking activity including collection of funds and disbursement of funds (without having signature or online transaction authority); all withdrawals or payments will require paper checks signed with two Board member signatures,
 - b. Maintaining sufficient competent records of all financial matters including review of invoices and reimbursement requests for compliance to funding authorizations by the Board in its annual budget, funding agreements and other funding motions or resolutions,
 - c. Compile and present to Board for approval at its regular monthly meeting a listing of accounts payable and projected accounts payable, along with necessary bank transfers.
2. Attend monthly Board meetings and any Board workshops that concern financial matters,
3. Provide summarized financial information as requested by the Board for each monthly Board meeting and any financial Board workshops,
4. Inform the Board of any significant variances in the contract management and budgetary controls for all funded programs,
5. Perform periodic review of a summary of indigent invoices prepared by funded agencies for accuracy and propriety with the then current funding agreements,
6. Assist the Board in preparation of the annual the budget,
7. Provide all necessary financial information for the Board to establish the succeeding year's ad valorem millage tax rate,
8. Prepare various TRIM (Truth Responsibility In Millage) calculations and attend TRIM related Board Workshops and Meetings, and submission of Board approved budget and tax decisions on forms required by the Volusia County Property Appraiser and TRIM Office in State Department of Financial Services.
9. Provide assistance with outside audits,
10. Review and process for payment in and out of county HCRA invoices, consistent with annual budget and contractual authorization,

11. Perform periodic site visits on funded agencies to perform limited testing to determine whether the agency is in compliance with the requirements of their funding agreements.

Administrative functions:

1. Provide staffing for the Authority sufficient to conduct business during a regular set of agreed upon working hours (to be determined), five days a week
2. Perform all general office functions including but not limited to:
 - 2.1. Respond in a timely manner to all communications and requests for information from Board, CAC, Third Party Administrator (EBMS); Primary Care Clinic (MiCare) and public,
 - 2.2. Maintain sufficient competent records of all such communications and correspondence,
 - 2.3. Receive and forward citizen comments to Board, CAC, Attorney, Accountant and all other relevant parties
 - 2.4. Order and maintain office and meeting supplies and equipment,
3. Coordinate with Board and CAC future meeting dates, Coordinate with meeting venues to verify availability and Present Board and CAC with a consolidated annual calendar of meeting dates, times and locations,
4. Using past letters and forms, place required newspaper advertising in advance of Board and CAC meeting to comply with Sunshine Law notice requirements,
5. Prepare Board and CAC meeting agenda books, distribute electronically and make available hard copies for members, Accountant, Attorney and the public,
6. Coordinate with Attorney to provide the Board with final versions of proposed agreements, resolutions, letters and other documents for Board review, votes of approval and then signature(s) once approved by the Board,
7. Coordinate date and time to schedule and attend monthly pre-meetings between Board Chair, Accountant and Attorney, generally scheduled Tuesdays at 2p.m. before a scheduled Board meeting.
8. Attend evening Board and CAC meetings to make tape recordings of the meetings and provide any updates to the Board and CAC about any requested matters,
9. Prepare summary (non-verbatim) meeting minutes of Board and CAC meetings based upon tape recordings and notes taken while attending the meetings
10. Act as WVHA's designated Records Custodian to maintain records, comply with records destruction requirements and respond to straightforward requests for copies of public records and coordinate with Attorney to respond to those from requests from lawyers.
11. Coordinate with website design vendor to update regularly the westvolusiahospitalauthority.org website with meeting materials, annual budget and financial statement information, etc.
12. Assist with processing subrogation matters, initial receipt of mail notification from attorneys representing Health Card members in third party lawsuits, responding to notice by editing and then sending a form letter that notifies lawyers of WVHA's assertion of its subrogation rights, then coordinating with Third Party Administrator, Accountant and Attorney to provide any requested summary of bills paid on behalf of the Health Card member who is involved in the third party lawsuit.
13. Perform any other matters common to maintaining an efficient administration office for the purpose of conducting the business of the Authority,

Any changes to applicable laws or WVHA policies may significantly change the requirements of the Accounting and Administrative functions.

EXISTING PROGRAM OVERVIEW

The following information is provided as an introduction to the West Volusia Hospital Authority (WVHA) indigent care program.

The WVHA is an independent special tax district encompassing the western portion of Volusia County, Florida (the "Tax District"), created by a special act of the Florida Legislature, Chapter 57-2085, Laws of Florida, as amended and re-codified, for the purpose of, either directly or through third parties, providing access to health care for indigent residents of the Tax District. The WVHA is a governmental entity subject to both the Public Records and Sunshine Laws.

The governance of the WVHA is vested in its Board of Commissioners. The Board consists of five (5) elected Commissioners who serve staggered four (4) year terms, without compensation.

The Program's goal is to provide an avenue for comprehensive quality health care services in a cost effective and efficient manner for qualified West Volusia residents. The targeted population served by this Program is those individuals (working or non-working) who have limited income, limited assets, are uninsured, and have no other medical benefits available to them (Medicaid, Medicare, other commercial insurance). Medical services are available to eligible residents through a network of care that has been made possible through partnerships with hospitals, physicians, diagnostic testing facilities and other medical professionals.

GENERAL INFORMATION

- The WVHA is not a licensed insurance company.
- The WVHA serves a population that is not eligible for other Federal and State programs such as Medicaid or Medicare. The WVHA is the payer of last resort.
- The WVHA does not supplement third party funding sources
- Many clients served by the WVHA are working individuals who have families and either do not have insurance available to them through their employer or cannot afford health insurance and be able to provide for their families.
- The WVHA is for West Volusia County residents who met established eligibility criteria and promotes access to health care benefits through local health care provider partners.

WVHA Goals

- Increase access to medical care for the uninsured and underinsured residents of the WVHA Taxing District.
- Stabilize or reduce the inappropriate utilization of our local emergency

departments by increasing access to health care services for the uninsured residents of the WVHA Taxing District.

Covered Services

- Hospitalization (Inpatient, Outpatient, Emergency Room)
- Primary Care
- Specialty Care
- Pharmacy
- Dental Services
- OB/Prenatal Services

See attached sample Financial Statements for detailed description of covered services and WVHA's budget allocations.

SECTION I: STATEMENT OF QUALIFICATIONS

GENERAL

1. Please provide:

- The legal name and tax ID number of entity
- Business address of applying entity and service location (if different)
- A description of the organization,
- Where the organization is registered, and
- How the organization is licensed or certified.

2. Do you hold an active certificate of authority to act as a Certified Public Accountants and/or firms licensed to practice in the State of Florida? Please provide:

- Documentation of same,
- A copy of the state required Fidelity Bond, and as evidence of current professional liability coverage, general liability coverage and errors and omissions coverage, including limits.

3. How long has your organization provided Certified Public Accounting services?

4. Would WVHA have a dedicated unit and/or dedicated staff?
If yes, describe.

5. Please provide the name, address, telephone number and contact person from at least three references. Please include:

- One organization which retained your services during the past 12 months;
- One organization which has utilized your services for two years or more; and
- One government or non-profit organization, preferably one which serves

and indigent and/or uninsured population

6. If you were awarded a contract, how long would you need for startup prior to implementation?
7. Do you have any pending legal action against your organization? Please include this information as related to claims, recent judgments against entity or its affiliates, and officers. If any, please explain.
8. Do you have any other certifications that you believe are relevant for our consideration of your proposal?

PROPOSED FEE STRUCTURE

1. What is your proposed fee structure, including what is the maximum amount WVHA can expect to pay for each service or the combined set?
 - Accounting Duties
 - Administrative Duties
 - Combination of Accounting and Administrative Duties
2. Please specify prices for initial and subsequent years of service as appropriate.

INSURANCE

1. Description of insurance coverage maintained by you or your firm. Copies of declarations pages from current policies for each of the following types of insurance must be attached:
 - a. Workers' Compensation
 - b. General Commercial Liability, including Premises and Operations
 - c. Professional Liability, Malpractice and Errors and Omissions

SOFTWARE/SYSTEM CAPABILITIES

1. What type of system/software is utilized? Is it an internally or externally developed system?
2. Who maintains the system?

DISASTER RECOVERY

1. How often is your server backed-up and how quickly can it be recovered? What are the back-up procedures? Can policies and procedures be obtained? Media used? How and where are they stored?
2. How fast can the system be replaced in the case of a disaster? Are the disaster recovery plan and timeframes outlined? Please provide your policies and procedures.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

The selected firm shall comply with any prohibitions, restrictions, limitations, conditions, or other requirements to the extent applicable to the firm directly or indirectly pursuant to HIPAA and its implementing regulation concerning privacy of individual identifiable health information as set forth in 45 CFR, Parts 160-164, as amended from time to time. As a part of the agreement with the WVHA, the selected firm shall sign a HIPAA business agreement. In substantially the form attached here to as Exhibit E.

AGREEMENT

What is the minimum initial term of agreement would you propose and what the minimum amount of prior is written notice you would expect or give prior to a termination of any agreement with WVHA to provide the requested accounting or administrative services, or both.

SUBMITTAL

Each proposal shall contain:

- Name, company name, address, telephone number, fax number.
- Statement of Qualifications'
- External Quality Control

A copy of the firm's most recent two (2) external quality control reviews (peer reviews) which included a review of specific governmental engagements.

EVALUATION OF PROPOSALS

The WVHA Board of Commissioners will review proposals that are received. Proposals that are non-responsive to the above requirements may not be included for evaluation for possible short-listing.

The specific criteria and point value established for this Request for Proposal is as follows:

- | | |
|---|-----------|
| 1. Capacity to Perform All Accounting Duties | 40 points |
| 2. Capacity to Perform or Subcontract Administrative Duties | 25 points |
| 3. Location of Contractor | 5 points |
| 4. Financial Stability and Professionalism | 10 points |
| 5. Competiveness of Proposed Fee Structure. | 20 points |

The Board reserves the following rights:

- Conduct pre-award discussion with any or all, responsive and responsible proposers who submit proposals determined to be reasonably acceptable of being selected for award; conduct personal interviews or require presentations of any or all proposers prior to selection.
- Request that proposer(s) modify their proposal to more fully meet the needs of the WVHA or to furnish additional information as the WVHA may reasonably require.
- Accord fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Such revisions may be permitted after submission of proposals and prior to award.
- Process the selection of the successful proposer without further discussion.
- Accept or reject qualifications or proposals in part or in whole.
- Request additional qualification information.
- Limit and/or determine the actual contract services to be included in a contract, if applicable.
- Obtain information for use in evaluating submittals from any source.
- Waive any irregularity in any proposal, or reject any or all submittals, should it be deemed in the best interest of the WVHA to do so.
- Revise, amend or withdraw this proposal or reject all bids and restart the bid process at any time to protect its interest.
- The Board shall be the sole judge of proposers' qualifications.

SUBMITTAL OF PROPOSALS

Interested parties are invited to submit one (1) original marked **ORIGINAL** and eight (8) copies marked **COPY** of their proposal in a sealed envelope. The envelope should be labeled **"RFP – Accounting and/or Administrative Services" Proposals** may be mailed or delivered to:

**West Volusia Hospital Authority
Voloria Manning, Secretary of Board of Commissioners
C/O Dreggors, Rigsby & Teal, P.A.
1006 N. Woodland Boulevard
DeLand, FL 32720**

The submittal shall be received by the WVHA only at the above address prior to 12:01 p.m. Eastern, **Wednesday, April 27, 2022.**

The delivery of the submittal on the above date and prior to the specified time is solely the responsibility of the respondent.

The submittal may be withdrawn either by written notice to the WVHA Administrator or in person, if properly identified, at any time prior to the above submittal deadline.

GENERAL CONDITIONS

CONTACT

After the issuance of any Request for Proposal, prospective proposers shall not contact, communicate with or discuss any matter relating in any way to the Request for Proposal with the Board of Commissioners or any employee of EBMS, The Law Offices of Theodore W. Small or Dreggors, Rigsby & Teal, P.A. other than the WVHA Administrator or as directed in the cover page of the Request for Proposal. This prohibition begins with the issuance of any Request for Proposal and ends upon execution of the final contract. Such communications initiated by a proposer **shall** be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal.

INDEMNIFICATION

The firm shall, in addition to any other obligation to indemnify the WVHA and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the WVHA, their agents, elected officials and contracted legal and accounting professionals from and against all claims, actions, liabilities, losses, costs, including attorney's fees, arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting from, or any other damage or loss arising out of or resulting from or claims to have resulted in whole or in part from any actual or alleged act or omission of the firm, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule, regulation or infringement of patent rights by the firm in the performance of the work; or liens, claims or actions made by the firm or any subcontractor or other party performing the work.

PUBLIC ENTITY CRIMES STATEMENT

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/proposal on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36

months from the date of being placed on the convicted vendor list. By submitting this proposal, the proposer hereby certifies that they have complied with said statute.

EQUAL OPPORTUNITY/AFFIRMATIVE ACTION

The WVHA is committed to equal opportunity employment effort; and expects firms that do business with the WVHA to have a vigorous affirmative action program.

WOMEN/MINORITY BUSINESS ENTERPRISE OUTREACH

The WVHA hereby notifies all Proposers that W/MBE's are to be afforded a full opportunity to participate in any request for proposal by the WVHA and will not be subject to discrimination on the basis of race, color, religion, sex, national origin, age, disability or marital status.

AFFIRMATION

By submitting his/her proposal, the Proposer affirms that the proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; the Proposer has not directly or indirectly induced or solicited any other person to submit a false or sham proposal; the Proposer has not solicited or induced any person, firm or corporation to refrain from submitting a proposal; and the Proposer has not sought by collusion to obtain for him/herself any advantage over other persons or over the WVHA.

DEVELOPMENT COSTS

Neither the WVHA nor its representative(s) shall be liable for any expenses incurred in connection with preparation of a response to the RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

ADDENDA

The WVHA may record its responses to inquiries and any supplemental instructions in the form of written addenda. The WVHA may mail written addenda before the date fixed for receiving the proposals. Proposers shall contact the WVHA Administrator to ascertain whether any addenda have been issued. Failure to do so could result in an unresponsive proposal. Any oral explanation given before the RFP opening will not be binding. All inquiries shall be in writing and addressed to the WVHA Administrator, 1006 N Woodland Blvd, DeLand, FL 32720.

CODE OF ETHICS

If any proposer violates or is a party to a violation of the code of ethics of WVHA or the State of Florida, with respect to this proposal, such proposer may be disqualified from performing the work described in this proposal or from furnishing the goods or services for which the proposal is submitted and shall be further disqualified from bidding on any future proposals for work, goods, or services for the WVHA.

DRUG FREE WORKPLACE

Preference shall be given to businesses with Drug Free Workplace (DFW) programs. Whenever two or more proposals, which are equal with respect to price, quality and service, are received by the WVHA for the procurement of commodities or contractual services, a proposal received from a business that has provided a statement that it is a DFW shall be given preference in the award process.

APPLICABLE LAWS AND COURTS

This RFP and any resulting agreements shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Volusia County, State of Florida or the Middle District of Florida, Volusia County, Florida. The proposer shall comply with all applicable federal, state and local laws and regulations.

CONTRACT

All contracts are subject to final approval of the WVHA Board of Commissioners. Persons or firms which incur expenses or change position in anticipation of a contract prior to the Board's approval do so at their own risk.

PROPOSAL ACCEPTANCE PERIOD

A proposal shall be binding upon the offeror and irrevocable by it for ninety (90) calendar days following the proposal opening date. Any proposal in which offeror shortens the acceptance period may be rejected.

ADDITION/DELETION

The WVHA reserves the right to add to or delete any item from this proposal or resulting agreements when deemed to be in the best interest of the WVHA.

PROPRIETARY INFORMATION

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State and Federal Law, all proposers should be aware that Request for Proposals and the responses thereto are in the public domain. However, the proposers are **required** to identify **specifically** any information

contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, **citing specifically the applicable exempting law.**

All proposals received from proposers in response to this Request for Proposal will become the property of the WVHA and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the WVHA.

LIMITATIONS

The WVHA reserves the right to revise, amend or withdraw this proposal at any time to protect its interest. Proposers will not be compensated by the WVHA for costs incurred in preparation of responses to this RFP.

EXHIBIT D

WEST VOLUSIA HOSPITAL AUTHORITY HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Addendum to the agreement between West Volusia Hospital Authority ("WVHA)" and ("Provider") for the provision of ____

WITNESSETH:

WHEREAS, the U.S. Department of Health and Human Services ("HHS") has issued final regulations, pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), governing the privacy of individually identifiable health information ("Protected Health Information", or "PHI") obtained, created or maintained by certain entities, including healthcare providers (the "HIPAA Privacy Rule"); and

WHEREAS, Provider and its employees, affiliates, agents or representatives may access paper and/or electronic records containing PHI in carrying out their obligations to the WVHA pursuant to either an existing or contemporaneously executed agreement for services ("Services Agreement"); and

WHEREAS, the HIPAA Privacy Rule requires that the WVHA and Provider execute this Addendum in order to protect the privacy of PHI;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements contained herein the parties agree as follows:

1. **Use and Disclosure of PHI to Provide Services.** The Provider will not use or further disclose PHI (as such term is defined in the HIPAA Privacy Rule) other than as permitted or required by the terms of the Services Agreement or as required by law. Except as otherwise provided in this document, the Provider may make any and all uses of PHI necessary to perform its obligations under the applicable Services Agreement. All other uses not authorized by this Addendum are prohibited.
2. **Additional Provider Activities.** Except as otherwise provided in this Addendum, the Provider may also:
 - 2.1 Use the PHI in its possession for its proper management and administration and/or to fulfill any present or future legal responsibilities of the Provider, provided that such uses are permitted under state and federal confidentiality laws.
 - 2.2 Disclose the PHI in its possession for the purpose of its proper management and administration and/or to fulfill any present or future legal responsibilities of the Provider. Provider represents to WVHA that (i) any disclosure it makes will be permitted under applicable laws, and (ii) the Provider will obtain reasonable written assurances from any person to whom the PHI will be disclosed that the PHI will be held confidentially and used or further disclosed only as required and permitted under the HIPAA Privacy Rule and other applicable laws, that any such person agrees to be governed by the same restrictions and conditions contained

in this Addendum, and that such person will notify the Provider of any instances of which it is aware in which the confidentiality of the PHI has been breached.

- 2.3 To bring together the WVHA's PHI in Provider's possession with the PHI of other covered entities that the Provider has in its possession through its capacity as a Provider to such other covered entities, provided that the purpose of bringing the PHI information together is to provide the WVHA with data analyses relating to its Healthcare Operations, as such term is defined in the HIPAA Privacy Rule. The Provider will not disclose the PHI obtained from WVHA to another covered entity without written authorization from the WVHA.
- 2.4 De-identify any and all PHI provided that the de-identification conforms to the requirements of applicable law as provided for in 42 C.F.R. § 164.514(b) and that Provider maintains such documentation as required by applicable law, as provided for in 42 C.F.R. § 164.514(b). The Parties understand that properly de-identified information is not PHI under the terms of this Addendum.

3. **Provider Covenants.** Provider agrees to:

- 3.1 Use or further disclose the minimum necessary PHI in performing the activities called for under the Services Agreement;
- 3.2 Not to use or further disclose PHI except as permitted under this Addendum, the HIPAA Privacy Rule, and applicable State law, each as amended from time to time;
- 3.3 Use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for in this Addendum;
- 3.4 Report to the WVHA any use or disclosure of the PHI not permitted by this Addendum within five (5) days of the Provider becoming aware of such use or disclosure;
- 3.5 In conjunction with the requirements of Section 2.2, ensure that any subcontractors or agents to whom it provides PHI received from, or created or received by the Provider on behalf of the WVHA agree to the same restrictions and conditions that apply to the Provider with respect to the PHI;
- 3.6 Within ten (10) days of a request by WVHA, report to WVHA all disclosures of PHI to a third party for a purpose other than Treatment, Healthcare Operations or Payment, as such terms are defined in the HIPAA Privacy Rule. The report to the WVHA shall identify: (i) the subject of the PHI (i.e., patient name or identifier), (ii) the PHI disclosed, and (iii) the purpose of the disclosure in accordance with the accounting requirements of 45 C.F.R. § 164.528;
- 3.7 Maintain the integrity of any PHI transmitted by or received from WVHA;
- 3.8 Comply with WVHA policies and procedures with respect to the privacy and security of PHI and other WVHA records, as well as policies and procedures with respect to access and use of WVHA's equipment and facilities;

3.9 Provide the rights of access, amendment, and accounting as set forth in Sections 5, 6 and 7.

4. **WVHA Covenants.** The WVHA agrees to notify Provider of material limitations to the consents or authorizations that have been obtained by the WVHA from their patients, clients or employees and any other restrictions on the use or disclosure of PHI as agreed to by the WVHA.
5. **Access to PHI.** Within five (5) days of a request by the WVHA for access to PHI about a patient, client or employee contained in a Designated Record Set, as such term is defined in the HIPAA Privacy Rule, the Provider shall make available to the WVHA, or the patient, client or employee to whom such PHI relates or his or her authorized representative, such PHI for so long as such information is maintained in the Designated Record Set as defined in 45 C.F.R. § 164.524. In the event any patient requests access to PHI directly from the Provider, the Provider shall, within five (5) days, forward such request to the WVHA. Any denials of access to the PHI requested shall be the responsibility of the WVHA.
6. **Amendment of PHI.** Within ten (10) days of receipt of a request from the WVHA for the amendment of a patient's, client's or employee's PHI or a record contained in a Designated Record Set the Provider shall, as required by 45 C.F.R. § 164.526, incorporate any such amendments in the PHI; provided, however, that the WVHA has made the determination that the amendment(s) is/are necessary because the PHI that is the subject of the amendment(s) has been, or foreseeably could be, relied upon by the Provider or others to the loss of the individual who is the subject of the PHI to be amended. The obligation in this Section 6 shall apply only for so long as the PHI is maintained by Provider in a Designated Record Set.
7. **Accounting for Disclosures of PHI.** Within thirty (30) days of notice by the WVHA to the Provider that it has received a request for an accounting of disclosures of PHI regarding an individual, the Provider shall make available to the WVHA such information as is in the Provider's possession and is required for the WVHA to make the accounting required by 45 C.F.R. § 164.528. In the event the request for an accounting is delivered directly to the Provider, the Provider shall, within five (5) days, forward the request to the WVHA. It shall be the WVHA's responsibility to prepare and deliver any such accounting requested.
8. **Access to Books and Records Regarding PHI.** The Provider will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by the Provider on behalf of, the WVHA available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining the WVHA's compliance with the HIPAA Privacy Rule.
9. **Disposition of PHI Upon Termination.** The Provider will, at termination or expiration of the Services Agreement, if feasible, return or destroy all PHI received from, or created or received by the Provider on behalf of, the WVHA which the Provider and/or its subcontractors or agents still maintain in any form, and will not retain any copies of such information. If such return or destruction is not feasible, the Provider will notify the WVHA of such event in writing, and will therefore extend the protections of this Addendum to the PHI and limit further uses and disclosures to those purposes that

make the return or destruction of the PHI not feasible.

10. Representations and Warranties

10.1 Mutual Representations and Warranties of the Parties. Each Party represents and warrants to the other Party:

- (a) that it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this Addendum and to perform its obligations described in this Addendum, and that the performance by it of its obligations under this Addendum have been duly authorized by all necessary corporate or other actions and that such performance will not violate any provision of any organizational charter or bylaws.
- (b) that neither the execution of the Services Agreement, including this Addendum, nor its performance, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance.
- (c) that all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Addendum are or shall be appropriately informed of the terms of this Addendum and are under legal obligation to each Party, respectively, by contract or otherwise, sufficient to enable each Party to fully comply with all provisions of this Addendum.
- (d) that it will reasonably cooperate with the other Party in the performance of the mutual obligations under this Addendum.

11. Term. Unless otherwise terminated as provided in Section 12, this Addendum shall become effective on the Effective Date of the Services Agreement and shall have a term that shall run concurrently with that of the Services Agreement.

12. Termination and Survival of Certain Provisions

12.1 Generally. This Addendum will automatically terminate without any further action of the Parties upon the termination or expiration of the Services Agreement; provided, however, certain provisions and requirements of this Addendum shall survive such expiration or termination, as provided herein.

12.2 Termination by the WVHA. As provided for under 45 C.F.R. § 164.504(e)(2)(iii), the WVHA may immediately terminate this Addendum, the Services Agreement and any related agreements if the WVHA makes the determination that Provider has breached a material term of this Addendum. Alternatively, and in the sole discretion of the WVHA, the WVHA may choose to provide Provider with written notice of the existence of the breach and provide Provider with thirty (30) calendar days to cure said breach upon mutually agreeable terms. In the event that mutually agreeable terms cannot be reached within this thirty (30) day period, Provider shall cure said breach to the satisfaction of the WVHA within an additional fifteen (15) days. Failure by Provider to cure

said breach or violation in the manner set forth above shall be grounds for immediate termination of the Services Agreement by the WVHA. If termination is not feasible, WVHA has the right to report the problem to the Secretary of the U.S. Department of Health and Human Services.

- 12.3 Termination by the Provider. If Provider determines that the WVHA has breached a material term of this Addendum, then the Provider shall provide the WVHA with written notice of the existence of the breach and shall provide the WVHA with thirty (30) calendar days to cure said breach upon mutually agreeable terms. In the event that mutually agreeable terms cannot be reached within this thirty (30) day period, the WVHA shall cure said breach to the satisfaction of the Provider within an additional fifteen (15) days. Failure by the WVHA to cure said breach or violation in the manner set forth above shall be grounds for immediate termination of the Services Agreement by the Provider.
13. **Effect of Termination.** Upon termination pursuant to Section 12, Provider agrees to return or destroy all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(I), if it is feasible to do so. Prior to doing so, the Provider further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Provider to return or destroy all PHI, the Provider will notify the WVHA in writing. Such notification shall include: (i) a statement that the Provider has determined that it is infeasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. Provider further agrees to extend any and all protections, limitations and restrictions contained in this Addendum to the Provider's use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI not feasible. If it is not feasible for the Provider to obtain from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Provider must provide a written explanation to the WVHA and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Addendum to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI not feasible.