REQUEST FOR Proposal

Central Texas Community Health Centers d/b/a CommUnityCare

2115 Kramer Lane, Suite 100 Austin, TX  78758
512-978-9016

For

Data Archiving for Legacy EHRS

RFP 2020-02-001

Issue Date

February 17, 2020

RFP Summary:

CommUnityCare has purchased a new EHRS and requires an archiving data solution for their legacy data. CommUnityCare is seeking bids from qualified Respondents to submit proposals for data archiving of NextGen legacy EHRS data and other legacy data. The proposals must also include data management solutions that provide user accessibility within EPIC EHRS.
NOTICE TO BIDDER
Request for Proposal

RFP Number: 2020-02-001
RFP Title: Data Archiving For Legacy EHRS

RFP Start Date: 2/17/20
Questions Due: 2/26/20 @5:00pm CST
Answer Response Date: 3/3/20

RFP Submittal Due By Date: 3/10/20 @ 2:00pm CST

RFP Contact Purchasing Manager
tena.southwell@communitycaretx.org

Only Paper Proposals will be accepted.

One original Proposal, 5 copies and 1 electronic copy (Flash Drive) must be delivered to the following location:

RFP 2020-02-001
Data Archiving
Attn: Purchasing Manager
2115 Kramer Lane
Austin, TX 78758

Please include a return address label

By 2:00pm CENTRAL TIME, Tuesday, 3/10/20

Responses received at the designated location after the published time and date will not be considered.
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A. PURPOSE OF THIS REQUEST FOR PROPOSAL (RFP)

CommUnityCare acquired EPIC EHRs and plans to migrate a portion of the data contained in the current EHR system from NextGen. However, we need an archiving data solution for the legacy records, images, scanned documents, billing/revenue cycle data, etc. The legacy data will originate from multiple EHR systems, NextGen EHR, PM and EDR, eCW, HealthFusion, Fusion and Dentrix. We would like to combine patient records from disparate legacy systems and have the records display as one patient chart available for use within EPIC.

B. SCOPE OF PROCUREMENT

The scope of procurement shall encompass the defined Scope of Work, detailed in Attachment A and Cost Proposal Worksheet, Attachment B of this RFP. The term of the agreement resulting from this RFP is anticipated to be for three (3) years with two (2) optional renewal periods pursuant to funding availability and satisfactory service provision, as determined by CommUnityCare.

C. PURCHASING MANAGER

CommUnityCare has designated a Purchasing Manager who is responsible for the conduct of this request on behalf of CommUnityCare and whose name and e-mail address is listed below.

Tena Southwell	tena.southwell@communitycaretx.org

All deliveries (including Proposal delivery) should be addressed to the Purchasing Manager at the address located on the Notice to Bidder page. Please also include a return address, with company name and address, on the outside of the proposal package.

Any inquiries or requests regarding this RFP should be submitted to the Purchasing Manager as identified above. Respondents may ONLY contact the Purchasing Manager regarding this RFP. Respondents should not contact individual CommUnityCare Board of Managers, CommUnityCare President and CEO, or CommUnityCare staff regarding this RFP. Such contact may result in disqualification of the entity initiating the contact.

D. DEFINITION OF RFP TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

"BidSync Website" is the following link: https://www.bidsync.com/community-care
"Central Health” means the Travis County Healthcare District d/b/a Central Health.

"CUC" means Central Texas Community Health Centers d/b/a CommUnityCare ("CommUnityCare")

"CommUnityCare Website" is the following link: http://communitycaretx.org/

"Close of Business" means 5:00 PM Central Time

"Contract" means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful Respondent who enters into a binding contract.

"Determination" means the written documentation of a decision by the Purchasing Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

"Desirable" means that the terms “may,” “can,” “should”, "preferably,” or “prefers” identify a desirable or discretionary item or factor (as opposed to “mandatory”).

"ESBD" means Electronic State Business Daily is at the following link: http://www.txsmartbuy.com/sp. Agency Member name is Central Texas Community Health Center.

"Evaluation Committee" means a body appointed by CommUnityCare management to perform the evaluation of Proposals.

"Evaluation Tabulation Report" means a document prepared by the Purchasing Manager and the Evaluation Committee for submission to the CommUnityCare Board of Managers or CEO for contract award. It contains all written determinations resulting from the procurement.

"Finalist" is defined as a Respondent who meets all the mandatory specifications of this Solicitation and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" means that the terms “must,” “shall,” “will,” “is required,” or “are required,” identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the Respondents Proposal.

"Respondent" is any person, corporation, or partnership who submits a Proposal.

"Purchasing Manager," means the person or designee authorized by CommUnityCare to manage or administer this RFP requiring the evaluation of the Proposals.
"Request for Proposal" or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Respondents" means Respondents who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

"Responsive Offer" or “Responsive Proposal” means an offer or proposal, which conforms in all material respects to the requirements outlined in the Request for Proposal. A responsible Respondent is one that is trustworthy and possesses the necessary quality, fitness, and capacity to satisfactorily, perform the proposed work.

E. COMMUNITYCARE BACKGROUND INFORMATION

This section provides background on CommUnityCare, and the operating environment of CommUnityCare, which may be helpful to the Respondents in preparing the RFP. The information is provided as an overview and is not intended to be a complete and exhaustive description.

Goals and Objectives

The physicians and staff at CommUnityCare are committed to providing quality care in a friendly, caring and efficient environment. We believe all patients have a right to have their cultural, psychological, spiritual, and personal values, beliefs and preferences respected. We are committed to service excellence.

Overview of CommUnityCare

Central Texas Community Health Centers d/b/a “CommUnityCare” is a 501(c)(3) a non-profit organization provides healthcare services to underinsured and uninsured residents of Travis County. CommUnityCare was formerly a department of the City of Austin, transitioning to a nonprofit status on March 1, 2009. Today, CommUnityCare provides services at 35 locations in Travis and surrounding Counties. Each year, our health centers provide approximately 344,000 medical and dental patient appointments. This number represents more than 96,000 individual patients. CommUnityCare provides outpatient primary healthcare, dental care, limited specialty care, lab services, and radiology including mammography, a full service pharmacy, and behavioral health services. We also provide HIV/AIDS treatment at our David Powell Clinic, and care for the homeless with a location at the ARCH, along with Street Medicine teams that go out in the community to provide primary care to the homeless. These services are provided to all Travis County residents including those whose incomes and lack of
private health insurance qualify them for enrollment. Two (2) of our locations, Hancock and William Cannon, were designed to expand access by providing walk-in services to patients in our system. These clinics offer extended hours and weekend care. Many of our providers speak several languages and we also utilize a telephone medical translation service for less common foreign languages. That means we serve patients from all over the world and understand their language.

Approximately 50% of CommUnityCare’s funding comes from the Community Care Collaborative, a partnership of Central Health and a local hospital system that funds care for qualifying uninsured patients. CommUnityCare receives some federal, other public, and private grant funds as well as billing Medicare, Medicaid, and other insurance. In 2010 CommUnityCare was accredited by The Joint Commission, a world leader in evaluating the quality and safety of care delivered at healthcare networks across the World and was re-accredited in 2016.

For purposes of this RFP, the following data is given to be helpful in preparing the responses. The information is provided as an overview and is not intended to be a complete and exhaustive patient statistical data information.

Overview of the Central Health

Travis County Healthcare District d/b/a Central Health was founded in 2004 as a limited-purpose taxing district. It is responsible for providing healthcare to indigent persons residing in Travis County. At that time, funding and oversight for the Community Health Center system was under the City of Austin before it was transferred to Central Health. In 2009, the Community Health Center system became a private, non-profit corporation named CommUnityCare. It currently operates with an annual budget of approximately $85 million and serves about 96,000 patients.

Visit us online at 
http://www.communitycaretx.org/ and 
http://www.centralhealth.net/

I. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

The Purchasing Manager will make every effort to adhere to the following schedule:

A. SEQUENCE OF EVENTS
<table>
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<th>Action</th>
<th>Date</th>
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<td>1. Issuant of RFP</td>
<td>2/17/20</td>
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<tr>
<td>2. Pre-Proposal Meeting (optional)</td>
<td>None</td>
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<td>3. Deadline to Submit Questions (in the form of RFP Addendum)</td>
<td>2/26/20</td>
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<td>5. Deadline to Submit Proposal</td>
<td>3/10/20</td>
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<tr>
<td>6. Selection of Finalists</td>
<td>TBD</td>
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<td>8. Interview by Finalists</td>
<td>TBD</td>
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Respondents, who received notification of this solicitation by means other than through CommUnityCare mailing, are requested to contact the Purchasing Manager herein to request to be added to the vendor list. Inclusion on the vendor list is the only way to ensure timely notification of any addenda and/or information that may be issued prior to the solicitation Proposal date. IT IS THE RESPONDENTS SOLE RESPONSIBILITY TO ENSURE THAT THEY RECEIVE ANY AND ALL ADDENDA FOR THIS RFP by either informing CommUnityCare of their email contact information or by regularly checking the ESBD or BidSync websites as listed in the Definitions section above. Addenda will be posted on the website the day they are released.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

   This RFP is being issued by CommUnityCare.

2. Pre-Proposal Meeting, Optional

   Pre-Proposal Meeting will not be scheduled for this RFP.

3. Deadline to Submit Written Questions

   Potential Respondents may submit additional written questions as to the intent or clarity of this RFP until the close of business referenced in the Notice to Bidder section above. All written questions must be submitted via e-mail to the Purchasing Manager (See Section I, Paragraph C).

4. Response to Written Questions/RFP Addendum

   Written responses to written questions and any RFP addendums will be distributed by close of business referenced on the Notice to Bidder section above, via BidSync, ESBD and e-Mail (providing Respondents requested to be added to the bid vendor list) as defined in Section II, Paragraph A; Sequence of Events.
Additional written requests for clarification of distributed answers and/or amendments must be received by the Purchasing Manager no later than two (2) days after the answers and/or amendments were issued.

5. Submission of Proposal

THE PURCHASING MANAGER OR DESIGNEE MUST RECEIVE ALL RESPONDENTS PROPOSALS FOR REVIEW AND EVALUATION NO LATER THAN **2:00PM CENTRAL TIME ON RFP Submittal Due Date.** Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal. The Proposals must be addressed and delivered to the Purchasing Manager at the address as indicated on the Notice to Bidder Page.

Proposals must be sealed and labeled on the outside of the package and clearly indicate that they are in response to the **RFP 2020-02-001** Data Archiving. Proposals submitted by facsimile or other electronic means will not be accepted.

All Respondents are expected to carefully, examine the RFP documents. Any ambiguities or inconsistencies should be brought to the attention of the Purchasing Manager (Section I, Paragraph C). It is CommUnityCare’s intent that all information necessary to complete a Proposal is included in this RFP. It is the responsibility of the Respondents to obtain clarification of any information contained herein that is not fully understood. CommUnityCare is responsible for interpretation of the wording of this RFP. Its staff will not give verbal answers to inquiries regarding the RFP contents. Any verbal statement regarding the RFP prior to the award shall be considered non-binding. The only formal interpretation of the RFP will be made by RFP addendum issued by the Purchasing Manager. A copy of such addendum will be posted on BidSync and ESBD.

A log will be kept of the names of all Respondent’s organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing Respondents prior to contract award.

6. Proposal Evaluation

An evaluation committee appointed by CommUnityCare management will perform the evaluation of proposals. The Purchasing Manager may initiate discussions with Respondents who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Respondents.

7. Selection of Finalists
The evaluation committee will evaluate and score written Proposal statements using the evaluation criteria identified in Section V. Based on the scoring, the Evaluation Committee will determine which Respondents will advance as finalists.

Note: CommUnityCare expects that no more than three (3) Respondents will advance to become finalists and that only finalists will be invited to participate in the steps below.

Step 1. Demonstration. Based on the results of the Evaluation Committee scoring and process as outlined above under the “Selection of Finalists” section, two or three Respondents will be invited to demonstrate their product. The Purchasing Manager will schedule the time for each Respondents’ demonstration. The demonstration will be held at CommUnityCare location as indicated in the Notice to Bidder Section above. In order to ensure efficient understanding of product, the demonstration may be a three (3) hour process or longer. Due to the busy schedule of CommUnityCare’s stakeholders, Respondents will be expected to adhere to a pre-determined agenda as developed by CommUnityCare and as provided to Finalist when the demonstration is scheduled.

Step 2. Best and Final Offers from Finalists. Finalists may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers. The Best and Final Offer, if requested, will be the basis for the final determination of contract award. Any best and final offer, as well as the entire submittal, will become part of the contract.

8. Contract Award

Respondents are reminded that this is a negotiated procurement and, as such, an award will not necessarily be made to the Respondents submitting the lowest-priced Proposal. If an award is made as a result of this RFP, that award will be made to the Respondent or Responders submitting the best responsive proposal that satisfies CommUnityCare’s requirements and provides the best overall value to CommUnityCare over the life of the project, as determined by CommUnityCare in its sole discretion.

C. GENERAL RFP REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement. Respondents must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal.
2. **Incurring Cost.** Any cost incurred by the Respondent in preparation, transmittal, presentation of any Proposal or material submitted for this RFP shall be borne solely by the Respondent.

3. **Prime Contractor Responsibility.** Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with CommUnityCare. CommUnityCare will make contract payments to only the prime contractor.

4. **Subcontractors.** Use of subcontractors must be clearly explained in the Proposal, and major subcontractors must be identified by name on Attachment E, HUB Form. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

5. **Amended Proposals.** Respondents may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be a complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. CommUnityCare personnel will not merge, collate, or assemble proposal materials.

6. **Respondents Rights to Withdraw Proposal.** Respondents will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Respondents must submit a written withdrawal request signed by the Respondents duly authorized representative addressed to the Purchasing Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. **Proposal Offer Firm.** Proposals to this RFP, including proposal prices, will be considered firm for ninety (90) days after the proposal submittal due date.

8. **Disclosure of Proposal Contents.** It is CommUnityCare's intention that proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals may be presumed to be public information under the Texas Public Information Act unless the Office of the Attorney General determines otherwise. The Purchasing Manager will not disclose or make public any pages of a proposal on which the Respondent has stamped or imprinted “proprietary” or “confidential” unless required to by law or regulation.

   - Proprietary or confidential data as identified by the Respondents must be readily separable from the proposal in order to facilitate eventual public inspection of the other
portions of the proposal. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

9. **Negotiations.** The Purchasing Manager or designee shall participate in all negotiations. Discussions may be conducted with responsible Respondents who submit proposals to the RFP and who is determined to be reasonably susceptible of being selected for award. Those Respondents will be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Respondents may be required to submit additional data and/or clarify previously submitted information during the process of any negotiations. Revisions and supplements to Respondents proposal may also be permitted after submission and before award for the purpose of obtaining best and final offers. Any best and final offer, as well as the entire submitted proposal, will become part of the awarded contract.

- CommUnityCare reserves the right to negotiate the price and any other term with any, all, or none of the Respondents. Any oral negotiations must be confirmed in writing prior to an award.

10. **Termination.** This RFP may be canceled at any time and any and all Proposals may be rejected in whole or in part when CommUnityCare determines such action to be in the best interest of CommUnityCare.

11. **Sufficient Appropriation.** Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. CommUnityCare’s decision as to whether there is sufficient appropriations and authorizations will be accepted by the contractor as final.

12. **Legal Review.** CommUnityCare requires that all Respondents agree to be bound by the General Requirements contained in this RFP. Any Respondent’s concerns must be promptly brought to the attention of the Purchasing Manager.

13. **Basis for Proposal.** Only information supplied by CommUnityCare in writing through the Purchasing Manager or in this RFP should be used as the basis for the preparation of Respondent’s Proposals. Any entity, by and through the submission of a Proposal, understands verbal communication regarding the RFP is not binding and communication either verbal or written to CommUnityCare Staff or Members of the Board prior to the award, their Proposal will be disqualified.

14. **Contract Terms and Conditions.** The contract between CommUnityCare and Contractor will follow the specified format.
and contain the same or similar terms and conditions as those contained in Attachment H, entitled the General Terms and Conditions. CommUnityCare reserves the right to negotiate with the successful Respondent any contract provisions, in addition to those contained in this RFP.

15. **Contract Deviations.** Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between CommUnityCare and the selected Respondents and shall not be deemed an opportunity to amend the Respondent’s proposal. Any requests for deviations must be made in the Proposal and, where appropriate, the Contractor should suggest alternative contract language. Contracts must also provide a brief discussion of the purpose and impact, if any, of each proposed change.

CommUnityCare may accept the alternative language at its sole discretion. Extensive revisions to the proposed contract language may be considered non-responsive and grounds for disqualification. General references to the Contractor’s terms and conditions or attempts at complete substitutions are unacceptable to CommUnityCare and may result in disqualification of the Contractor’s Proposal.

16. **Respondents Terms and Conditions.** Respondents must submit with the proposal a complete set of additional terms and conditions, which they expect to have included in a contract negotiated with CommUnityCare. Respondents must document additional terms and conditions in the required transmittal letter.

17. **Respondents Qualifications.** The Evaluation Committee may make such investigations as necessary to determine the ability of the Respondents to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the Proposal of any Respondent who is not a responsible Respondent or fails to submit a responsive offer.

18. **Right to Waive Minor Irregularities.** The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive Proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

19. **Change in Contractor Representatives.** CommUnityCare reserves the right to require a change in contractor representatives if the assigned representative is not, in the opinion of CommUnityCare, meeting its needs adequately.

20. **CommUnityCare Rights.**
• Reject any or all proposals and discontinue the RFP process without obligation or liability to any respondent;
• waive any defect, irregularity or informality in any proposal;
• accept a proposal other than the lowest-price proposal;
• award a contract on the basis of initial proposal received without discussions or requests for best and final offers;
• request best and final offers from any or all respondents;
• accept proposals from one or more entity;
• procure the services in whole or in part by other means;
• award more than one contract or;
• not award any contract.

21. Right to Publish. Throughout the duration of this procurement process and contract term, potential Respondents, and Contractors must secure from CommUnityCare written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Respondents proposal or termination of the contract.

22. Ownership of Proposals. All documents submitted in response to this RFP shall become the property of CommUnityCare.

23. Electronic mail address (Required). A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Respondents must have a valid e-mail address to receive correspondence from CommUnityCare.

24. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If accepted by such means, the Respondent acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Respondents’ possession and the version maintained by CommUnityCare, the version maintained by CommUnityCare shall govern.

25. Historically Underutilized Business (HUB) Program and Good Faith Effort. It is CommUnityCare’s policy that HUBs have the maximum opportunity to participate in the performance of CommUnityCare contracts and subcontracts. Respondents shall make a "good faith effort" to take all necessary and reasonable steps to ensure that HUBs have the maximum opportunity to participate as subcontractors, see Attachment E, HUB form.

To be eligible under this program, HUB contractors and subcontractors must be certified as a HUB, M/WBE, or DBE source by a recognized governmental program, such as:

• City of Austin Municipal Government;
• Texas Unified Certification Program; or
• The state of Texas.

Any entity identified as a HUB (as either a prime or subcontractor) shall submit a copy of its certification with its proposal. CommUnityCare reserves the right to verify any entity's HUB status prior to contract award.

26. Suspension and Debarment Requirement. The Respondent shall certify, by signing the Acknowledgement of Receipt form, attached hereto as Attachment C that to the best of its knowledge and belief that the Respondents and/or its Principals are not or have not been debarred, suspended, proposed for debarment or declared ineligible for the award of contracts by any Federal, state or local departments.

27. Conflict-of-Interest Questionnaire. Pursuant to CommUnityCare’s Conflict of Interest Policy, no individual at CommUnityCare may enter into any employment, transaction, or other arrangement that may cause to be perceived to cause a conflict of interest. A potential for a conflict of interest may occur when an employee, or a member of an employee’s family, holds an interest in an entity or has an employment or other financial arrangement with any business or entity that conducts or seeks to conduct business or could be in competition, directly or indirectly with CommUnityCare. The acceptance of gifts or business courtesies from any third parties with whom CommUnityCare conducts business or who are seeking to do business with CommUnityCare may pose a conflict. Respondents must complete, sign and return the Conflict of Interest Form, Attachment G.

III. PROPOSAL FORMAT AND ORGANIZATION, MANDATORY

This section describes the format and organization of the Respondents' Proposal. Failure to conform to these specifications may result in the disqualification of the Proposal.

A. NUMBER OF PROPOSALS

1. Respondents shall submit only one (1) proposal.

B. NUMBER OF COPIES

1. Respondents shall deliver to CommUnityCare at the location specified in the Notice to Bidder Section on the closing date and time for receipt of Proposals, the following:
   • one (1) original copy of their Proposal and supporting technical and/or sample documentation;
   • five (5) identical copies of their Proposal;
   • five (5) copies of supporting technical and/or sample documentation (optional); and
• one (1) electronic identical copy of the Proposal on a flash drive

C. PROPOSAL REQUIREMENTS

All areas enumerated below must be addressed. Any questions or section left unanswered shall constitute failure to respond and make the proposal incomplete, and the proposal shall not be considered.

1. Proposal Organization.
   a) Letter of Transmittal;
   b) Table of Contents;
   c) Proposal Summary (optional);
   d) Response to Mandatory Specifications, Attachment A;
   e) Cost Proposal Worksheet, Attachment B;
   f) Required Certificates and License, if any; and
   g) Attachments:
      • C - Completed and Signed Acknowledgement of Receipt Form
      • D - Completed Certificate of Secretary if Respondents is a Corporation
      • E - Completed HUB Form
      • F - Vendor Confidentiality Agreement
      • G - Completed and Signed Conflict of Interest
      • I – Respondent References Form
      • Supplemental supporting material (optional)
      The Proposal must be typewritten and placed within a binder with tabs delineating each section.
      The Proposal summary may be included by Respondents to provide the Evaluation Committee with an overview of the technical and business features of the Proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Respondents' Proposal.
      Respondents may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal.

   A letter of transmittal must accompany each proposal and contain the following information:
   a) Identify the submitting organization;
   b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
   c) Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
   d) Identify the names, titles and telephone numbers of persons to be contacted for clarification;
e) Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
f) Be signed by the person authorized to contractually obligate the organization; and
g) Acknowledge receipt of any and all amendments to this RFP.

3. **Corporate References.**

Respondents must provide three (3) external client references from clients for whom the Respondent has provided services of the same nature and type as those outline in this solicitation and Scope of Work (see Attachment I). References submitted must be for services provided in the past two (2) years from the date of this solicitation. If the Respondent has provided services to CommUnityCare during this timeframe, one of the references may be from CommUnityCare Contract Manager. The minimum information that must be provided about each reference is:

a) Name of individual or company services were provided for
b) Mailing Address of individual or company
c) Name of contact person
d) Telephone number of contact person
e) Type of services provided and dates services were provided
f) Current e-mail address of the contact person

CommUnityCare reserves the right to utilize the letters of reference in determining whether a Respondent is a responsible Contractor/Supplier.

4. **Required Certificates and License**

a) Respondents must provide a current copy of all required regulatory certifications and licenses.

5. **Financial Information.**

- CommUnityCare reserves the right to ask the Respondent for a copy of the Respondents’ Financial Statement including the latest Balance Sheet and Income Statement showing assets, liabilities and retained earnings.
- When asked, Respondents must provide a letter from an authorized person who can contractually obligate the organization validating the Financial Statement.
- When asked, provide the name, address and contact phone number for your bonding company and Agent and provide a letter from your Surety or Agent stating that your firm is bondable for this project based on the budget and the timeframe stated herein.

**IV. EVALUATION**

RFP 2020-02-001
A. Evaluation Process

The evaluation process will follow the steps listed below:

1. Respondent Proposals will be reviewed for compliance of the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Purchasing Manager may contact the Respondents for clarification of the Proposal as specified in Section I Paragraph B.

3. The Evaluation Committee may use other sources of information to perform the evaluation as identified in Section I, Paragraph B.

4. Responsive proposals will be evaluated on the factors in the Mandatory Specifications, Section V that have been assigned a point value. The responsive and responsible Respondent’s proposal with the highest scores will be selected as finalist. Finalist may be placed on a “short list” and invited to present their proposals to the Evaluation Committee. Points awarded from the interviews will be evaluated and scored separately. The responsible Respondents whose proposal is most advantageous to CommUnityCare, taking into consideration the evaluation factors in Section V, will be recommended for contract award as specified in Section II, Paragraph B. Respondents, who are asked, or choose to submit a revised proposal for the purpose of obtaining best and final offer, will have their points recalculated accordingly. Please note, however, that a serious deficiency in the Proposal to any one factor may be grounds for rejection regardless of overall score.

B. EVALUATION RATING

1. Criteria Factors. The following is a summary of evaluation factors with percentage weight value assigned to each. These, along with the general requirements, will be used in the evaluation of Respondent’s proposals.

<table>
<thead>
<tr>
<th>FACTOR</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General Company</td>
<td>10</td>
</tr>
<tr>
<td>B. Product Information</td>
<td>20</td>
</tr>
<tr>
<td>C. Functional Requirement</td>
<td>15</td>
</tr>
<tr>
<td>D. Technical Questions</td>
<td>25</td>
</tr>
<tr>
<td>E. Price and Cost Methodology</td>
<td>30</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100</td>
</tr>
</tbody>
</table>

F. Interview TBD

V. EVALUATION FACTORS

RFP 2020-02-001
Respondents should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

Failure to respond to Mandatory Specifications will result in the disqualification of the proposal as non-responsive.

A. MANDATORY SPECIFICATIONS

1. **General Company Information**
   CommUnityCare is interested in knowing more about Respondent’s company, project staffing. Please complete Tab A, General Company located in the embedded spreadsheet of the Scope of Work on Attachment A.

2. **Product Information**
   CommUnityCare is interested in the Respondent’s company products and implementation and training of the product. Please complete Tab B, Product Information located in the embedded spreadsheet of the Scope of Work on Attachment A.

3. **Functional Requirements**
   CommUnityCare listed out functional capabilities they want the product to be able to perform along with a wish list. Please complete Tab C, Column E of the Functional Requirement by using the Functionality Requirement Key. Tab C is located in the embedded spreadsheet of the Scope of Work on Attachment A.

4. **Technical Information**
   CommUnityCare would like to know the technical aspects of your product to ensure it is in compliant with CommUnityCare’s Enterprise IT department’s standards and security measures. Please complete Tab D, Technical Questions located in the embedded spreadsheet of the Scope of Work on Attachment A.

5. **Price**
   CommUnityCare is interested in cost for Data Archival Software as well as the methodology used to calculate the cost that includes travel, training, implementation, third-party software, data migration, interoperability with other CUC software. The rates should include transportation and regulatory fees as a separate line item.

   Respondents are required to complete Attachment B, tab A to answer Cost Methodology questions and tab B, the pricing Sheet to indicate their most competitive rates.

6. **Interview (TBD)**
If selected as a finalist, Respondents agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee in the finalist notification letter at the interview.

7. **Demonstration (TBD)**
   If selected from the “short list” to demonstrate their product, Respondents agree to provide the staff and time required to fully demonstrate each aspect/module of their product.
Respondents are required to complete all four tabs of the RFP Response Template.

Tab A – General Company Information
Tab B – Product Information
Tab C – Functional Requirements
Tab D – Technical Questions
Respondents are required to complete both tabs of the RFP Cost Sheet

Tab A - Cost Methodology
Tab B - Price Sheet
ATTACHMENT C
RFP 2020-02-001
Acknowledgment of Receipt Form

NOTE: RESPONDENT SHALL COMPLETE AND RETURN THIS ATTACHMENT (all pages) WITH THEIR PROPOSAL. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL.

By signature hereon, the Respondent certifies that:

• All statements and information prepared and submitted in response to this Request for Information are current, complete and accurate.

• He/she has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a CommUnityCare in connection with the submitted response. Failure to sign the Acknowledgement of Receipt Form or signing it with a false statement shall disqualify the Proposal.

• Neither the Respondent or the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the Offer made to any competitor or any other person engaged in such line of business.

• Respondent agrees that any payments due under this Contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

• Respondent represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any Contract resulting from this Offer.

• Suspension, Debarment, and Terrorism: Respondent certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government’s terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at http://www.epls.gov.
ATTACHMENT B continued
Acknowledgment of Receipt Form

In acknowledgment of receipt of this Request for Submittal, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Attachment J.

Complete (Legal) Name of Respondent: ____________________________

Respondent Tax Identification Number: ____________________________

Business Address: ______________________________________________

Telephone Number: _____________________________________________

Type of Organization:  □ Individual  □ Partnership  □ Corporation  □ Association

□ Other (please describe) _______________________________________

If incorporated, state of incorporation: ______________________________

Date organization was formed (month/year): _________________________

Number of years providing services/systems similar to those requested in this RFP: ________________________________________________

Addendum Receipt:

Offer hereby acknowledges the receipt of Addenda Numbers ______ through ________.

<table>
<thead>
<tr>
<th>Certification</th>
<th>Yes</th>
<th>No</th>
</tr>
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<tbody>
<tr>
<td>Is Respondent/Respondent currently in the process of filing for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has Respondent/Respondent filed for bankruptcy within the past</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you certify that the Respondent/Respondent does not owe taxes to Travis County?</td>
<td></td>
<td></td>
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<tr>
<td>Do you certify that the Respondent/Responder is not currently under suspension or debarment by any governmental entity (local/state/federal government)?</td>
<td></td>
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<tr>
<td>Do you acknowledge that if the Respondent/Responder is currently under suspension or debarment, its Proposal may not be considered and may not be prohibited from doing business</td>
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</tbody>
</table>

Please certify the following by placing an “X” in the appropriate column:
Individual authorized to bind Bidder/Respondent to Contract:

Name/Title: ________________________________________________________________
Telephone:__________________ E-mail:________________________________________
Signature: ________________________ Date: _________________________

Point of contact information for this RFP:

Name/Title: ________________________________________________________________
Telephone:__________________ E-mail:________________________________________

Bidder/Respondent HUB Declaration:

☐ Are you certified as a HUB or an MBE/WBE/DBE source? If yes, please attach your HUB certification. Yes ☐ No ☐

Contract for Data Archive Software

The Data Archive Software identified in the RFP will form the Contract resulting from this RFP, and the Bidder/Respondent’s submission will be incorporated into the Contract. Please identify whether there are any requested exceptions or deviations.

☐ I do not request any exceptions or deviations to the stated Contract terms.

☐ I request the following exceptions or deviations to the stated Contract terms.
________________________________________________________________________________________
________________________________________________________________________________________

Insurance:

Do you carry professional liability insurance? ☐ Yes ☐ No ☐
If yes, please identify the type/limits: ______________________________________________________

Do you carry errors and omissions insurance? ☐ Yes ☐ No ☐
If yes, please identify the type/limits: ______________________________________________________

Litigation History:

Description of litigation to which the firm has been a party in the most recent five-year period. Please include the following details:

RFP 2020-02-001
1) Name of case
2) Date filed
3) Court in which filed
4) Judgment or result

**Important:** The Respondent must respond to all questions. The Respondent may attach additional documents to the questionnaire to provide additional details.

Authorized Respondents Signature ______________________________ Date ____________________
ATTACHMENT D

Certificate of Secretary

I CERTIFY that:

I am the duly qualified and acting Secretary of ________________________

, a duly organized and existing Corporation of the State of______________________________

[Name of State]

The following is a true copy of a Resolution duly adopted by the Board of Directors of such corporation in a meeting legally held on the day of______________, 20___, and entered in the minutes of such meeting in the minute book of the Corporation.

RESOLVED, that this corporation enter and that ______________________

[Insert Name of Person Executing Contract], the ____________

[Position With Corporation] of this corporation, is authorized and directed to execute on behalf of and as the act of this corporation the Proposal Form for the CommUnityCare Data Archive Software, RFP#2020-02-001 together with all associated documents and should this corporation be the successful bidder for that project, to execute on behalf of and as the act of the corporation all necessary documents to effect a written agreement between this corporation and CommUnityCare. The Secretary is directed to attach a copy of the Proposal Documents to the minutes of this meeting and to make them a part of the corporate records.

The above Resolution is in conformity with the Articles of Incorporation and, the Bylaws of the Corporation has never been modified or repealed and is now in full force and effect.

Date ______________________________

Secretary __________________________

President __________________________

RFP 2020-02-001
ATTACHMENT E

Historically Underutilized Business (HUB) Form

The CommUnityCare’s policy is to include Historically Underutilized Businesses (HUBs) in its procurement process and to provide equal opportunities for HUB participation in the provision of supplies, services, equipment, and construction projects required by CommUnityCare. As such, CommUnityCare seeks to ensure that a “good faith effort” is made to assist certified HUB vendors and contractors in its award of contracts and subcontracts.

To be considered as a “Certified HUB Contractor/Vendor”, the contractor/vendor must have been certified by, and hold a current and valid certification, from any of the following certifying agencies recognized by CommUnityCare: the Texas Building and Procurement Commission (State of Texas); City of Austin; and the Texas Unified Certification Program (TUCP), which includes six certifying agencies.

Suggested directories to assist Respondents in identifying potential HUBs to meet CommUnityCare’s “good faith effort” requirement include:
State: http://www.window.state.tx.us/procurement/cmbi/cmbilhub.html;
City: http://www.austintexas.gov/department/purchasing; and
TUCP: https://txdot.txdotcms.com/?TN=txdot

<table>
<thead>
<tr>
<th>Respondent HUB Declaration</th>
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<tbody>
<tr>
<td>Is your company certified as a HUB or an MBE/WBE/DBE source?  ☐ Yes  ☐ No</td>
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<tr>
<td>If yes,</td>
</tr>
<tr>
<td>1. Attach your certification to this form and return it in the proposal;</td>
</tr>
<tr>
<td>2. Identify the certification agency by checking all that apply; Texas Building and Procurement Commission, Texas Unified Certification Program; and City of Austin; Texas</td>
</tr>
<tr>
<td>3. Identify HUB Status (Gender &amp; Ethnicity): ______________________</td>
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<tr>
<th>Subcontractor HUB Declaration</th>
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<tbody>
<tr>
<td><strong>Please complete this section if your proposal includes the use of HUB Subcontractors.</strong></td>
</tr>
<tr>
<td>Estimated percentage of the bid (proposal) that is to be subcontracted with Certified HUB sources: ______________________________</td>
</tr>
</tbody>
</table>
For each proposed HUB subcontractor, complete the information below, attach the subcontractor’s HUB certification to this form, and return it in the proposal.

<table>
<thead>
<tr>
<th>HUB Subcontractor Name</th>
<th>Contact Person/Title (First/Last Name)</th>
<th>Telephone Number (including area)</th>
<th>E-mail address (if available)</th>
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Vendor Confidentiality Agreement

Through your activities and services provided to CommUnityCare, you and/or your staff may have access to see or hear protected health information. Protected health information is defined as any information that identifies an individual (patient) and describes their health status, sex, age, ethnicity, or other demographic characteristics in any format (i.e., electronic, written, or oral). The protected health information is protected by federal and state law and by CommUnityCare’s privacy policies. The intent of the laws and policies is to assure that protected health information remains confidential, and that it is used only to provide patient care and services.

Your duties, obligations and responsibilities with regard to confidentiality are described below in the form of an agreement with CommUnityCare. We require you and your staff to agree and abide by the terms of this agreement. Any violation may subject you and your staff to discipline, which may include termination of your business relationship under this RFP with CommUnityCare and legal liability to the patient and CommUnityCare. If you have any questions regarding this statement or agreement, please contact our Compliance Officer,

Confidentiality Agreement

I, the undersigned agent for our company, agree to the following on behalf of our company and staff that may have access to your office as a result of the service we provide:

1. Our company and staff will safeguard and will not disclose information that could provide access to protected health information by persons outside of our company.

2. Our company and/or staff will report activities by any persons or entity that we suspect may compromise the confidentiality of protected health information. (Reports made in good faith about suspect activities will be held in confidence to the extent permitted by law, including the name of the individual reporting the activities.)

3. Our company and staff acknowledge that we will be responsible for any misuse or wrongful disclosure of confidential information and for any failure, on our part, to safeguard our means of access to confidential information. Our company and staff understand that failure to comply with this agreement may also result in termination of our vendor agreement and legal liability.

4. Our company will have a supervisor review and discuss this Confidentiality Agreement with each employee or staff member that provides services to CommUnityCare. The supervisor will also have the employee sign an Employee Confidentiality Agreement in the format provided by CommUnityCare.

(Company Name)

RFP 2020-02-001
<table>
<thead>
<tr>
<th>Name of authorized agent (please print)</th>
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<tbody>
<tr>
<td>Authorized agent’s signature</td>
</tr>
</tbody>
</table>

RFP 2020-02-001
ATTACHMENT G

Conflict Of Interest Questionnaire

Introduction and Purpose

This Statement of Disclosure shall be completed by:

- The Respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of CommUnityCare.
- By signing and executing this bid, the Respondent certifies and represents to CommUnityCare the Respondent has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value for the receipt of special treatment, advantage, information, recipients’ decision, opinion, recommendation, vote or any other exercise of discretion concerning this bid.

PLEASE COMPLETE THE CONFLICT OF INTEREST FORM, SIGN AND RETURN WITH BID SUBMITTAL
Conflict Of Interest Questionnaire

Please answer the following questions to the best of your knowledge. Please print your responses and do not leave any questions blank.

1) Do you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), either own an interest in, or have an employment or other financial arrangement with, any business or entity that conducts or seeks to conduct business or is or could be in competition, directly or indirectly, with CommUnityCare?

Yes ( ) No ( ) If yes, describe: __________________________________________________________

_________________________________________________________________

2) Have you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), received any compensation, whether it be salary, sales commission, revenue, or return on investment, which was directly or indirectly derived as a result of business with CommUnityCare (excluding your regular employee compensation from CommUnityCare)?

Yes ( ) No ( ) If yes, describe: __________________________________________________________

_________________________________________________________________

3) Have you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), received from any business, entity or other outside person that conducts business with, seeks to do business with, or is or could be a competitor of CommUnityCare, any one-time gift or favor in excess of Fifty Dollars ($50.00) in value, or multiple gifts or favors with a cumulative value in excess of Two Hundred Fifty Dollars ($250.00) in a year? For this purpose, please list vendor paid travel, gifts or other business courtesies with an aggregate value in excess of $250 per year.

Yes ( ) No ( ) If yes, describe: __________________________________________________________

_________________________________________________________________

4) Do you or a member of your family serve as a director, trustee, officer or any other fiduciary or key employee capacity for a non-[Company] corporation, partnership, or other business entity or organization that conducts or seeks to conduct business or that is or could be in competition, directly or indirectly, with [Company]?

RFP 2020-02-001
Yes ( ) No ( ) If yes, describe (including the name of the entity, title, and nature of the entity's business):

__________________________________________________________________________

__________________________________________________________________________
5) Are you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), engaged in any other activities which could be regarded as a potential conflict of interest with CommUnityCare?

Yes ( ) No ( ) If yes, describe: 

________________________________________________________________________

6) To the best of your knowledge, did you or a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), benefit during the fiscal year, from any transaction involving CommUnityCare as a result of information or advice furnished by you either directly or indirectly?

Yes ( ) No ( ) If yes, describe: ________________________________

________________________________________________________________________

**Signature Statement**

I have read the CommUnityCare Conflict of Interest Policy, and I understand and acknowledge its requirements. I agree to comply with the CommUnityCare Conflict of Interest Policy. I will deal honestly, fairly and with integrity in all matters related to CommUnityCare and will not use my position or knowledge gained to the detriment of CommUnityCare or to my personal benefit or the benefit of a member of my family or an entity in which I hold an interest. I hereby agree to report immediately in writing to the CommUnityCare Corporate Compliance Officer any new situation with the potential for a Conflict of Interest which may develop before the completion of my next annual Statement of Disclosure. The answers above are true and accurate to the best of my knowledge as of the date of this disclosure.

Name (please print or type)       Title:

_____________________________   _______________________________

Signature: Date: 

_____________________________   _______________________________
ACCEPTANCE: Seller’s written acceptance, commencement of work, shipment, or partial delivery of any item or service called for under this Purchase Contract shall constitute acceptance by the Seller of this Purchase Contract and its Terms and Conditions.

ASSIGNMENT: CommUnityCare may assign any of its obligations under this Purchase Contract. Contractor may assign any of its rights or obligations under this Purchase Contract only with the prior written consent of CommUnityCare. No official, employee, representative, or agent of CommUnityCare has the authority to approve any assignment under this Purchase Contract unless that specific authority is expressly granted by CommUnityCare’s Board of Directors. The terms, provisions, covenants, obligations, and conditions of this Purchase Contract are binding upon and inure to the benefit of the successors-in-interest and the assigns of the parties to this Purchase Contract if the assignment or transfer is made in compliance with the provisions of this Purchase Contract.

CERTIFICATION: Contractor certifies that Contractor is a duly-qualified, capable, and licensed business entity or individual; Contractor is not in receivership and does not contemplate it, and Contractor has not filed for bankruptcy and does not contemplate it. Further Contractor certifies that it is not currently delinquent with respect to payment of property taxes within Travis County.

CODE OF CONDUCT: Employees, volunteers, contractors, and members of the Governing Board of CommUnityCare share the vision to provide primary health care, education, and preventive services to clients in the service area. The goal and purpose of the Code of Conduct is to maintain the integrity of CommUnityCare as a reliable healthcare provider and an integral part of the community we serve. Compliance with the Code of Conduct simply means that we “do the right thing” and the Code is our guide toward that end. Our policies and procedures are written and implemented in compliance with the regulations and standards of health care, which essentially are “the right thing.” Contractor’s commitment to the CommUnityCare vision, mission, and values to ethical conduct and to servicing others with your special and unique talents will help CommUnityCare success in meeting the health needs of our community and patients.

COMMUNITYCARE ACCESS AND AUDIT: During the term of this Purchase Contract and for a period of four (4) years following termination of this Purchase Contract, CommUnityCare maintains the right to review and audit any of the books and records of Contractor relating to Contractor’s performance and receipt of payments under this Purchase Contract. CommUnityCare may conduct its review or audit through its own employees, agents, or representatives or through independent external auditors or representatives or through independent external auditors or representatives retained by CommUnityCare. CommUnityCare will conduct such review or audit upon reasonable notice to the Contractor, at its own expense, and during regular business hours. The records shall be retained beyond the fourth year if
an audit is in progress, the findings of a completed audit have not been
resolved satisfactorily, or litigation involving this Purchase Contract is not
finally resolved.

**COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS:** Each party
shall provide the services and activities to be performed under the terms of
this Purchase Contract in compliance with the Constitutions of the United
States and Texas and with all applicable federal, state, and local orders, laws,
regulations, rules, policies, and certifications governing any activities
undertaken during the performance of this Purchase Contract, including, but
not limited to: Title VI of the Civil Rights Act of 1964, as amended; Section 504
of the Rehabilitation Act of 1973 (29 U.S.C. Section 794); and the Americans
shall discriminate against any employee, an applicant for employment, or plan
participant based on race, religion, color, gender, national origin, age, or
handicapped condition. In the performance of all services and activities under
this Purchase Contract, each party will comply with applicable state and
federal licensing and certification requirements, health and safety standards,
and regulations prescribed by the U. S. Department of Health and Human
Services, the Texas Department of State Health Services, or any other state
regulatory agency.

**CONFLICT BETWEEN DOCUMENTS:** In the event that there is a conflict
between the Purchase Order and Purchase Contract, the terms and conditions
in this Contract shall prevail.

**CONFLICT-OF-INTEREST:** Contractor shall file a completed Conflict-of-
Interest Questionnaire "CIQ" as required by CommUnityCare. Contractor shall
email the completed CIQ within seven (7) days of receipt of this signed
Contract to *purchasing@communitycaretx.org. If any statement on the
submitted CIQ becomes incomplete or inaccurate, Contractor shall submit an
updated CIQ not later than the seventh (7th) business day after the date of an
event that makes a statement in the CIQ incomplete or inaccurate with
CommUnityCare Purchasing Department.

**CONTRACT CONSTRUCTION:** Provisions, words, phrases, and statutes,
whether incorporated by actual use or by reference, shall be applied to this
contract in accordance with Texas Government Code, Sec 312.002 and
312.003. For purposes of this solicitation and any resulting award, the
following words or phrases shall have the meanings indicated: (i)
CommUnityCare – Central Texas Community Health Centers d/b/a
CommUnityCare; (ii) Board of Directors – CommUnityCare’s Board of Directors,
the governing body of CommUnityCare; (iii) Seller/Contractor– a person or firm
receiving award of a contract from CommUnityCare; and (iv) Subcontractor–a
person or firm doing business with a contractor.

**COVENANT AGAINST CONTINGENT FEES:** Seller warrants that no persons
have or selling agency has been retained to solicit this Purchase Contract upon
an understanding for a commission, percentage, brokerage, or contingent fee,
excepting bona fide employees or bona fide established commercial selling
agencies maintained by Contractor to secure business. For breach or violation
of this warranty, CommUnityCare shall have the right to terminate this
Purchase Contract without liability or, in its discretion and as applicable, to add
to or deduct from the contract price or otherwise recover the full amount of
such commission, percentage, brokerage, or contingent fee.
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS:
Certification under this Section provides for compliance with certification requirements under 15 C.F.R. Part 26, “Government-wide Debarment and Suspension.” By signing this Agreement, Contractor hereby certifies that, to the best of its knowledge and belief, it:

- is not currently debarred suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
- as not within a three-year period preceding the date of this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction;
- violation of Federal of State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction or records, making false statements, or receiving stolen property;
- is not currently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b); and
- has not within a three-year period preceding the date of this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

DRESS CODE: Contractors will follow a professional dress code that includes but is not limited to: No holes in clothes; No excessive visible tattoos or piercings; and No extreme haircuts. A clinic or office manager can request the Contractor to leave the premises if not properly attired.

ENTIRETY OF AGREEMENT AND MODIFICATION: All oral and written agreements between the parties to this Purchase Contract relating to the subject matter of this Purchase Contract that were made prior to the execution of this Purchase Contract have been reduced to writing and are contained in this Purchase Contract. This Purchase Contract may be amended only by an instrument in writing that is signed by both parties. Amendments to this Purchase Contract shall be effective as of the date stipulated therein. Contractor acknowledges that no CommUnityCare officer, agent, employee, or representative has any authority to amend this Purchase Contract unless expressly granted that specific authority by CommUnityCare Board of Directors.

ERRORS: Company will use reasonable commercial efforts to remedy fault errors that prevent the Software from substantially conforming to the specifications and documentation.

FORCE MAJEURE: Neither CommUnityCare nor Contractor will be deemed to have breached this Purchase Contract or be held liable for any failure or delay in the performance of all or any portion of its obligations under this Purchase Contract if prevented from doing so by a cause or causes beyond its control. Without limiting the generality of the foregoing, such causes include acts of God or the public enemy, fires, floods, storms, earthquakes, riots, strikes, boycotts, lock-outs, wars and war operations, acts of terrorism, restraints of government, power or communications line failure or other circumstances
beyond such party’s control, or by reason of the judgment, ruling, or order of any court or agency of competent jurisdiction, or change of law or regulation (or change in the interpretation thereof) subsequent to the execution of this Purchase Contract

**GOVERNING LAW AND VENUE:** The laws of the state of Texas (without giving effect to its conflicts of laws principles) govern all matters arising out of or relating to this Contract and all transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance, and enforcement. The venue for any dispute arising out of this Purchase Contract is in Travis County, Texas.

**HIPAA AND CONFIDENTIALITY:** If, during the course of providing said commodity or service, Contractor is exposed to confidential Patient Health Information (PHI), Contractor will not disclose that PHI to any person. Contractor agrees that in the event that they see or hear any PHI they will not reveal or disclose such information to any person. Contractor further agrees not to read copies of any documents containing PHI, and not to access any computer, cabinet, desk or file at CommUnityCare. Contractor further understands that their obligation to maintain the confidentiality of PHI will continue after their work with CommUnityCare ends. Finally, Contractor understands that unauthorized access to, disclosure or use of CommUnityCare's PHI may result in the termination of Contractor’s contract with CommUnityCare, and the imposition of civil and criminal fines pursuant to Texas and federal laws.

**HOLDOVER:** Upon expiration of the Initial Term or any Renewal Term, Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to negotiate or award a new contract.

**INDEMNIFICATION:** Contractor agrees to and shall indemnify and hold harmless CommUnityCare, its officers, agents, and employees, from and against any and all claims, losses, damages, negligence, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, for any act or omission by Contractor, or for damage to any property, arising out of or in connection with the work done by Contractor under this Contract, whether such injuries, death or damages are caused by Contractor's sole negligence or the joint negligence of Contractor and any other third party. Contractor agrees to and shall indemnify and hold harmless CommUnityCare, its officers, agents, and employees, from and against any and all claims, losses, damages, negligence, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, for any act or omission by Contractor, or for damage to any property, arising out of or in connection with the work done by Contractor under this Contract, whether such injuries, death or damages are caused by Contractor's sole negligence or the joint negligence of Contractor and any other third party.

**INSURANCE:** Contractor shall carry insurance sufficient to provide adequate protection for the services or good provided under this Agreement.

**INVOICES:** For purposes of complying with prompt payment standards, time does not begin unless or until all billing instructions have been complied with and proper delivery or performance has been made satisfactorily approved, whichever is later. CommUnityCare has twenty-one (21) days after the date
CommUnityCare receives the invoice in which to notify Contractor of an error in the invoice. A complete and acceptable invoice will contain: Line item descriptions of goods or services delivered, Location of goods or services delivery, Date of goods or services delivery, a unique invoice number, Reference the Purchase Order Number issued and the invoice will also contain a remittance section containing the date of service, the total amount due and the remittance address. Paper invoices should be mailed to CommUnityCare, P.O. Box 17366 Austin, TX 78760. Electronic invoices should be sent to accountspayable@communitycaretx.org

LEGAL CONSTRUCTION: If one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

NEGOTIATION AND MEDIATION: In the event of a dispute between the parties, the parties shall promptly, amicably, and in good faith attempt to resolve the dispute through informal negotiations. A disputing party shall give written notice of the dispute to the other party that shall contain a brief statement of the nature of the dispute. If the parties are unable to resolve the Dispute within thirty (30) days of the receipt by the adverse party of the written notice of Dispute, the parties may submit to mediation. The parties agree to use a mutually agreed upon mediator, or someone appointed by the Court having jurisdiction, as the provider of mediators for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation must remain confidential as described in TEX. CIV. PRAC. AND REM. CODE 154.073, unless both parties agree, in writing, to waive the confidentiality.

NONDISCRIMINATION AND STATUS: Seller certifies that it is a duly qualified, capable and otherwise eligible business entity, it is not in receivership and does not contemplate same and it has not filed for bankruptcy.

NOTICES: Any notice required or permitted to be given under this Contract by one party to the other shall be in writing. The notice is deemed to have been given immediately if delivered in person to the party. The notice is deemed to have been given on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party to whom the notice is to be given at the address set forth in this Contract.

NOVATION AND CHANGE OF NAME AGREEMENTS: Seller is responsible for the performance of this Contract. If Seller experiences a change of name or change of ownership, Seller shall notify CommUnityCare immediately. No change in the obligation of or to the Seller will be recognized until it is approved by CommUnityCare.

ORDER OF PRECEDENCE: In the event of inconsistent or conflicting provisions of this Contract and referenced documents, the following descending order of precedence shall prevail: (i) Specifications, (ii) Drawings, (iii) Special Terms and Conditions, (iv) General Terms and Conditions, and (v) Item Description.
OWNERSHIP: Licensor acknowledges that Licensees will be the sole and exclusive owner of or have the right to use all data, specifications, and other information provided by Licensees to Licensor in conjunction with the use of the Licensed Product.

PAYMENTS: Payment shall be made by check or electronic transfer of funds upon satisfactory delivery and acceptance of all items or services and submission of a proper invoice. For purposes of payment discounts, time will begin upon satisfactory delivery of goods or services or submission of a proper invoice, whichever is later. No partial payments shall be accepted. Payments will be paid within 30 days after receiving a correct invoice.

PAYMENTS FOR SERVICE: CommUnityCare will pay only those amounts invoiced by Contractor for actual hours worked and expenses incurred to perform the Services.

SEVERABILITY: In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SUPPORT SERVICES: Contractor will provide support service 24 hours per day, Monday to Friday.

TAXES: Contractor acknowledges and agrees that neither federal, state, nor local income tax, nor payroll tax of any kind will be withheld or paid by CommUnityCare on behalf of Contractor or its employees. Contractor and its employees will not be treated as employees with respect to the Services performed under the terms and conditions of this Contract for federal and state tax purposes. Contractor accepts responsibility for the compensation of its employees, withholding and payment of taxes, and for purchasing any liability, disability, or health insurance coverage deemed necessary by Contractor. Contractor understands that it is responsible for paying, according to the law, its income tax.

TERMINATION FOR DEFAULT: If Seller defaults in the performance of its obligations under this Contract, CommUnityCare may terminate the contract upon twenty-four (24) hours advance written notice to Seller. In addition to and without restricting any other legal, contractual, or equitable remedies otherwise available to CommUnityCare, CommUnityCare may terminate the Contract without cause by giving Seller at least ten (10) days advance written notice of termination. During budget planning and adoption, if CommUnityCare fails to provide funding for this Contract for the following fiscal year, CommUnityCare may terminate this contract after giving Seller notice that this contract is terminated due to the failure to fund it.

TERMINATION FOR GRATUITIES: CommUnityCare may terminate this Contract if it is found that gratuities of any kind, including entertainment or gifts, were offered or given by Contractor or any agent or representative of Contractor to any CommUnityCare official or employee with a view toward securing favorable treatment with respect to this Purchase Contract. If this Contract is terminated by CommUnityCare pursuant to this provision, CommUnityCare shall be entitled, in addition to any other rights and remedies, to recover from Contractor at least three times the cost incurred by Contractor in providing the gratuities.
**TERMINATION WITHOUT CAUSE**: Notwithstanding anything to the contrary herein, either party may terminate this Agreement at any time, without cause, upon ninety (90) days prior written notice to the other party.

**TIN**: Contractor shall provide CommUnityCare with an Internal Revenue Service Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations. Contractor understands that this W-9 Form must be provided to CommUnityCare before any funds are payable under this Contract. If there are any changes in the W-9 Form during the term of the Contract, Contractor will immediately provide with a new and correct W-9 Form.

**WAIVER OF DEFAULT OR BREACH**: No waiver by either of the parties hereto of any failure by the other party to keep or perform any provisions, covenant, or condition of this Contract shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, covenant, or condition.

**WARRANTY**: Implied warranties notwithstanding, Seller warrants to CommUnityCare that all items delivered and all services rendered under this Contract will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference in this Contract, will be of merchantable quality, good workmanship, and free from any defects. Seller further agrees to provide copies of applicable warranties to CommUnityCare. Return of merchandise not meeting applicable warranties or specifications shall be at Seller’s expense.
BUSINESS ASSOCIATE AGREEMENT

HIPAA BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT ("Agreement") by and between Central Texas Community Health Centers d/b/a CommUnityCare ("CommUnityCare"), a Texas nonprofit corporation and __________ ("Business Associate"), is entered into on this ___ day of ______________, ___ ("Effective Date"), for the purposes of complying with the privacy and security regulations issued by the United States Department of Health and Human Services ("HHS") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the American Recovery and Reinvestment Act of 2009 ("ARRA"), and applicable state law. Covered Entity and Business Associate are collectively referred to as the “Parties.”

RECITALS

WHEREAS, Covered Entity and Business Associate have entered into or are entering into agreements or other documented arrangements (the “Service Agreement”) pursuant to which Business Associate may provide products and/or services for Covered Entity that require Business Associate to access, create, and use health information that is protected by state and/or federal law; and

WHEREAS, the federal Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”) and the final Omnibus Rule were signed into law and impose certain privacy and security obligations on covered entities, business associates, and subcontractors in addition to the obligations created by the Privacy Standards and Security Standards and require that certain provisions be included in a written contract; and

WHEREAS, the Texas Legislature has adopted certain privacy and security requirements that are more restrictive than those required by federal law and such requirements are applicable to business associates as that term is defined by Texas law; and

WHEREAS, Business Associate and Covered Entity desire to enter into this Business Associate Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties hereto agree as follows:

1.  DEFINITIONS.  For the purposes of this Agreement, the following capitalized terms shall have the meanings ascribed to them below. Any other capitalized term not otherwise defined in this Section 1 of this Agreement shall have the meanings set forth in the Privacy Standards, Security Standards or the HITECH Act, as applicable.

   a.1  “Designated Record Set” or “DRS” shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 C.F.R. §164.501.

   a.2  “Electronic Protected Health Information” or “E PHI” shall have the meaning given to such term under the HIPAA Rule, including but not limited to 45 C.F.R. Parts 160, 162, and 164, and under HITECH.

Individual” shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 C.F.R. §§164.501 and 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

“Information” shall mean any “health information” as defined in 45 C.F.R. §160.103.

“Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

“Protected Health Information” or “PHI” shall have the meaning ascribed to this term in 45 C.F.R. §§164.501 and 160.103, and is the information created or received by Business Associate from or on behalf of Covered Entity.

“Required by Law” shall have the meaning ascribed to this term in 45 C.F.R. §§164.501 and 160.103.

“Secretary” shall have the meaning ascribed to this term in 45 C.F.R. §160.103.

“Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

“Security Rule” shall mean the HIPAA regulation that is codified at 45 C.F.R. Part 164.

“Subcontractor” shall mean a person (or entity) to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate. For purposes of this Agreement, the term “Subcontractor” shall include the downstream subcontractors of a Subcontractor (“Downstream Subcontractor”).

2. **CONFIDENTIALITY.** The Parties shall comply with all federal and state laws governing the confidentiality and privacy of health information including, without limitation, the Privacy Standards and Security Standards promulgated pursuant to HIPAA, the HITECH Act, the final Omnibus Rule, and Texas law, including without limitation the provisions of Texas Health and Safety Code Chapters 181 and 182, in each case including any implementing regulations as applicable.

2.1 **Obligations of Business Associate and Business Associate Subcontractors**

2.1.1 **Use and Disclosure of Protected Health Information**

(i) Business Associate warrants that Business Associate, its directors, officers, Subcontractors, employees, affiliates, agents, and representatives shall: (a) use or disclose PHI only in connection with fulfilling its duties and obligations under this Agreement and the Service Agreement; (b) not use or disclose PHI other than as permitted or required by this Agreement or required by law; and (c) not use or disclose PHI in any manner that violates applicable federal and state laws or would violate such laws if used or disclosed in such manner by Covered Entity.

(ii) For avoidance of doubt, under no circumstances may Business Associate or Subcontractors sell PHI in such a way as to violate Texas Health and Safety Code, Chapter 181.153, nor shall Business Associate or a Subcontractor use PHI for marketing purposes in such a manner as to violate Texas Health and Safety Code §181.152, or attempt to re-identify any information in violation of Texas Health and Safety Code §181.151, regardless of whether such action is on behalf of or permitted by the Covered Entity. At no time shall Business Associate or a Subcontractor sell or use and/or disclose PHI for a marketing purposes without first obtaining Covered Entity’s prior written consent.

(iii) Business Associate and Subcontractors shall provide adequate training to its employees and Subcontractors to ensure compliance with this Agreement, the Privacy Rule, Security Rule, HITECH requirements, the final Omnibus Rule, and state law.

(iv) Business Associate acknowledges that, as between Business Associate and Covered Entity, all PHI shall be and remain the sole property of Covered Entity, including any and all forms thereof developed by Business Associate and/or Subcontractor in the course of fulfillment of its obligations pursuant to this Business Associate Agreement and the Service Agreement.
(v) Business Associate further represents that it and Subcontractor will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request when using or disclosing PHI.

(vi) Business Associate and Subcontractor shall use appropriate safeguards and comply with applicable HIPAA requirements with respect to EPHI. Business Associate covenants that such safeguards shall include, without limitation, implementing written policies and procedures in compliance with HIPAA, HITECH, and the final Omnibus Rule, conducting a security risk assessment, and training Business Associate and Subcontractor employees who will have access to PHI with respect to the policies and procedures required by HIPAA, HITECH, the final Omnibus Rule, and implementing regulations.

(vii) To the extent the Business Associate or Subcontractor is to carry out a Covered Entity obligation under HIPAA, Business Associate and/or Subcontractor will comply with the requirements of HIPAA that apply to Covered Entity in the performance of such obligation.

(viii) Upon request, Business Associate shall provide Covered Entity with a written list of all Subcontractors and the written agreement pertaining to such relationship and shall permit Covered Entity to audit Business Associate and Subcontractor to determine compliance with this Agreement.

2.1.2 Provide Records and Compliance Reports. Business Associate and Subcontractor must keep such records and submit such compliance reports, in such time and manner and containing such information, as the Secretary may determine to be necessary to enable the Secretary to determine compliance with applicable HIPAA provisions.

2.1.3 Cooperate with Complaint Investigations and Compliance Reviews. Business Associate and Subcontractor must cooperate with the Secretary, if the Secretary undertakes and investigations or compliance review of the policies, procedures, or practices of Covered Entity, Business Associate, or Subcontractor to determine compliance with applicable HIPAA provisions.

2.1.4 Permit Access to Information. Business Associate and Subcontractor must permit access to the Secretary during normal business hours to its facilities, books, records, accounts and other sources of information, including PHI, for ascertaining compliance. If the Secretary determines that exigent circumstances exist, such as when documents may be hidden or destroyed, Business Associate and Subcontractor must permit access by the Secretary at any time and without notice. If any information required of the Business Associate or Subcontractor is under the exclusive possession of any other agency, institution, or person and the other agency, institution, or person fails to furnish the information, the Business Associate or Subcontractor must so certify and set forth what efforts it has made to obtain the information. Business Associate and Subcontractor shall provide Covered Entity copies of all documents provided to Secretary or other regulatory and accreditation authorities.

2.2 Access of Individuals to Information

2.2.1 In order to allow Covered Entity to respond to a request by an Individual for access pursuant to 45 C.F.R. §164.524, within three (3) business days of a written request by Covered Entity for access to PHI about an Individual contained in a Designated Record Set, Business Associate (or Subcontractor as applicable) shall make available to Covered Entity such PHI for as long as such information is maintained in the Designated Record Set. Business Associate shall contractually obligate Subcontractor to forward a request from an Individual to Business Associate on the same day that Subcontractor receives such requests in order to comply with the terms of this Agreement.

2.2.2 In the event any Individual requests access to PHI directly from Business Associate or a Subcontractor, Business Associate shall forward such request to Covered Entity within two (2) business days. Before forwarding any PHI to Covered Entity, Business Associate (or Subcontractor as applicable) shall indicate in the Designated Record Set, any material it deems unavailable to the Individual pursuant to 45 C.F.R. §164.524.

2.2.3 Business Associate or a Subcontractor must process PHI subject to access in the electronic form or format requested by Covered Entity, unless Covered Entity requests a readable hard copy form or such other format requested by Covered Entity.
2.2.4 Any denial of access to PHI determined by Covered Entity pursuant to 45 C.F.R. §164.524, and conveyed to Business Associate by Covered Entity, shall be the sole responsibility of Covered Entity, including resolution or reporting of all appeals and/or complaints arising from denials.

2.2.5 Business Associate and Subcontractor shall support Covered Entity in a manner that enables Covered Entity to meet the obligations under 45 C.F.R. §164.524.

2.3 Amendment of Information.

2.3.1 In order for Covered Entity to respond to a request by an Individual for an amendment of PHI pursuant to 45 C.F.R. §164.526, Business Associate (or Subcontractor as applicable) shall, within five (5) business days of a written request by Covered Entity to amend PHI about an Individual contained in a Designated Record Set, make available to Covered Entity such PHI for as long as such information is maintained in the Designated Record Set. Business Associate shall contractually obligate Subcontractor to forward a request from an Individual to Business Associate on the same day that Subcontractor receives such requests in order to comply with the terms of this Agreement.

2.3.2 In the event any Individual requests amendment of PHI directly from Business Associate or Subcontractor, Business Associate (or Subcontractor as applicable) shall forward such request to Covered Entity within two (2) business days. Before forwarding any PHI to Covered Entity, Business Associate (or Subcontractor as applicable) shall indicate in the Designated Record Set, any material it deems unavailable to the Individual pursuant to 45 C.F.R. §164.526.

2.3.3 Any denial of amendment of PHI determined by Covered Entity pursuant to 45 C.F.R. §164.526, and conveyed to Business Associate by Covered Entity, shall be the sole responsibility of Covered Entity, including resolution or reporting of all appeals and/or complaints arising from denials.

2.3.4 Business Associate (and Subcontractor as applicable) shall support Covered Entity in a manner that enables Covered Entity to meet his/her obligations under 45 C.F.R. §164.524.

2.3.5 Within ten (10) business days of receipt of a request from Covered Entity to amend an Individual’s PHI in the Designated Record Set, Business Associate shall make certain that Subcontractors incorporate the amendment, statements of disagreement, and/or Individual rebuttals into its Designated Record Set as required by 45 C.F.R. §164.526.

2.4 Accounting of Disclosures.

2.4.1 In order to allow Covered Entity to respond to a request by an Individual for an accounting pursuant to 45 C.F.R. §164.528, Business Associate (or Subcontractor as applicable) shall, within five (5) business days of a written request by Covered Entity for an accounting of disclosures of PHI about an Individual, make available to Covered Entity such PHI in such format requested by Covered Entity. Business Associate shall contractually obligate Subcontractor to forward a request from an Individual to Business Associate on the same day that Subcontractor receives such requests in order to comply with the terms of this Agreement.

2.4.2 At a minimum, Business Associate (or Subcontractor as applicable) shall provide Covered Entity with the following information: (1) the date of the disclosure; (2) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (3) a brief description of the PHI disclosed; and (4) a brief statement of the purpose of such disclosure.

2.4.3 In the event any Individual requests an accounting of disclosure of PHI directly from Business Associate or Subcontractor, Business Associate (or Subcontractor as applicable) shall forward such request to Covered Entity within two (2) business days.

2.4.4 Business Associate and Subcontractor shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Subsection 2.4.

2.4.5 Business Associate and Subcontractor shall support Covered Entity in a manner that enables Covered Entity to meet the obligations under 45 C.F.R. §164.528.

2.5 Survival. The provisions of this Section 2 shall survive the termination of this Agreement.
3. Disclosure to Third Parties.

3.1 Subject to any limitations in this Agreement and the Service Agreement, Business Associate may disclose PHI to Subcontractors as necessary to perform its obligations under the Service Agreement and as permitted or required by applicable federal or state law.

3.2 Business Associate shall not [and shall provide that its directors, officers, employees, Subcontractors, and agents, do not] disclose PHI to any other person (other than members of their respective workforce as specified in Subsection 3.3 of this Section), unless disclosure is required by law or authorized by the person whose PHI is to be disclosed. Business Associate shall enter into a signed written agreement with its Subcontractor(s) (as applicable) that:

3.2.1 Establishes the permitted and required uses and disclosures of PHI by the Subcontractor. The written agreement shall not authorize the Subcontractor to use or further disclose PHI in a manner that would violate the Privacy Rule, if done by Covered Entity.

3.2.2 Binds the Subcontractor and Downstream Subcontractors to the same provisions, restrictions, and conditions of this Agreement pertaining to PHI, and Electronic PHI that apply to Business Associate for the express benefit of Covered Entity. Business Associate, Subcontractor, and Downstream Subcontractors shall not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.

3.2.3 Requires the Subcontractor and Downstream Subcontractors comply with the applicable requirements of HIPAA (including but not limited to the Security and Privacy Rule as well as Texas Privacy provisions) and the contractual obligations set forth in this Agreement by entering into a written contract.

3.2.4 Contains reasonable assurances from Subcontractor that PHI will be held confidential as provided in this Agreement, and only disclosed as required by law for the purposes for which it was disclosed to Subcontractor.

3.2.5 Obligates Subcontractor to immediately notify Business Associate of any breaches (including breaches of unsecured PHI as required by 45 C.F.R. §164.410) of the confidentiality of the PHI and Security Incidents of which it becomes aware.

3.2.6 Obligates Business Associate and Subcontractor to comply with the principle of “minimum necessary use and disclosure,” i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed; provided further, Business Associate and Subcontractor shall comply with Section 13405(b) of the HITECH Act, and any regulations or guidance issued by HHS concerning such provision, regarding the minimum necessary standard and the use and disclosure (if applicable) of Limited Data Sets.

3.2.7 Requires that Subcontractor enter into a written agreement with its Downstream Subcontractors that requires Downstream Subcontractors to agree to the same responsibilities, restrictions, and conditions that apply to the Subcontractor and Business Associate.

3.2.8 To the extent the Subcontractor is to carry out Covered Entity’s obligations under HIPAA, the Subcontractor shall comply with the requirements of HIPAA that apply to Covered Entity in the performance of such obligation.

3.2.9 Business Associate is not in compliance with this Agreement if Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of the Subcontractor’s obligation under the contract or other arrangement, unless the Business Associate takes reasonable steps to cure the breaches or end the violation, as applicable, and if such steps are unsuccessful, terminate the arrangement or agreement.

3.2.10 Business Associate is not in compliance with, and shall indemnify Covered Entity pursuant to Section 10 of this Agreement if Business Associate, Subcontractor, or Downstream Subcontractors:

(i) Impermissibly use or disclose PHI;

(ii) Fail to provide Covered Entity timely and accurate breach notification;

(iii) Fail to provide timely access to a copy of PHI either to Covered Entity, the individual, or the individual’s designee;
(iv) Fail to provide a timely and accurate accounting;
(v) Fail to timely disclose PHI where required by the Secretary;
(vi) Fail to fully comply with Texas law, the Security Rule, or the Privacy Rule;
(vii) Fail to fully comply with this Business Associate Agreement.

3.3 Business Associate shall not disclose PHI to any member of its workforce and shall provide that its Subcontractors and agents do not disclose PHI to any member of their respective workforces, unless Business Associate or such Subcontractor or agent has advised such person of Business Associate’s obligations under this Agreement, and of the consequences for such person and for Business Associate or such Subcontractor or agent of violating them. Business Associate shall take and shall provide that each Subcontractor and agent takes appropriate disciplinary action against any member of its respective workforce who uses or discloses PHI in contravention of this Agreement.

3.4 In addition to Business Associate’s obligations under this Agreement, Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Covered Entity in writing, any harmful effect that is known to Business Associate or Subcontractor and is the result of a use or disclosure of PHI by Business Associate or recipients in violation of this Agreement, including but not limiting the uses and disclosures of Subcontractors.

4. SAFEGUARDS

4.1 Business Associate and Subcontractors shall employ appropriate administrative, technical and physical safeguards, consistent with the size and complexity of Business Associate’s operations, to protect the confidentiality of PHI and to prevent the use or disclosure of PHI in any manner inconsistent with the terms of this Agreement.

4.2 Business Associate and Subcontractors shall provide Covered Entity with a copy of its written information security program upon request.

4.3 Upon reasonable notice and during normal business hours, Covered Entity shall have the right to audit Business Associate’s and Subcontractors’ compliance with its security program and the terms of this Agreement. Business Associate and Subcontractors shall cooperate in such audits and shall provide copies of any documents reasonably requested by Covered Entity at no charge.

4.4 Business Associate acknowledges (and Subcontractors shall acknowledge) that the HITECH Act and final Omnibus Rule require Business Associate and Subcontractors to comply (in part) with 45 C.F.R. §§164.306, 164.308, 164.310, 164.312, 164.314, and 164.316 as if Business Associate (and Subcontractors) were a Covered Entity, and Business Associate agrees that it and Subcontractors through written contract shall comply with these provisions of the Security Standards and all additional security provisions of the Security Rule.

5. REPORTING OF BREACHES AND IMPROPER DISCLOSURES

5.1 Breaches. A breach is the unauthorized acquisition, access, use, or disclosure of PHI in a manner not permitted by HIPAA which compromises the security or privacy of such information.

5.1.1 In the event of a Breach of any “Unsecured Protected Health Information” (i.e., Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under section 1302(h)(2) of Pub.L. 111-5) that Business Associate (or a Subcontractor) accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds or uses on behalf of Covered Entity, Business Associate shall provide notice of the Breach to Covered Entity immediately, but in no event more than two (2) days after discovering the Breach. Business Associate shall be liable and indemnify Covered Entity pursuant to Section 10 for Business Associate’s and Subcontractor’s unreasonable delays in reporting Breaches to Covered Entity.

5.1.2 Notice of a Breach shall include, at a minimum: (i) the identification of each individual whose PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the Breach; (ii) the date of the Breach, if known; (iii) the scope of the Breach; (iv) a description of the Business Associate’s response to the Breach; and (v) any other reasonable information requested by Covered Entity.
5.1.3 In the event of a Breach, Business Associate (or Subcontractor as applicable) shall, in consultation with Covered Entity and at Covered Entity’s direction, assist Covered Entity in conducting a risk assessment of the Breach, provide notice as required by the final Omnibus Rule and upon approval of Covered Entity, mitigate, to the extent practicable, any harmful effect of such Breach known to Business Associate. For purposes of this Agreement, a Breach of Unsecured PHI shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate (including any person, other than the individual committing the breach, who is an employee, officer, Subcontractor, or other agent of Business Associate, as determined in accordance with the federal common law of agency) or should reasonably have been known to Business Associate following the exercise of reasonable diligence. Business Associate shall solely incur all costs associated with mitigation and public or individual notice efforts (including the costs associated with a Subcontractor’s breach).

5.1.4 In the event of any conflict between this Section 5.1 and Texas law, the more stringent requirements shall govern.

5.2 Improper Disclosures

5.2.1 Business Associate acknowledges that the HITECH Act requires Business Associate to comply with 45 C.F.R. §§164.308, 164.310, 164.312 and 164.316 as if Business Associate were a Covered Entity, and Business Associate agrees to comply with these provisions of the Security Standards and all additional security provisions of the HITECH Act.

5.2.2 To the extent feasible, Business Associate and Subcontractors will use commercially reasonable efforts to secure PHI through technology safeguards that render such PHI unusable, unreadable and indecipherable to individuals unauthorized to acquire or otherwise have access to such PHI in accordance with HHS Guidance published at 74 Federal Register 19006 (April 17, 2009), or such later regulations or guidance promulgated by HHS or issued by the National Institute for Standards and Technology (“NIST”) concerning the protection of identifiable data such as PHI.

5.2.3 Business Associate and Subcontractor shall track all disclosures of PHI to third parties, including those made to Business Associate’s directors, officers, subcontractors, employees, affiliates, agents, and representatives, other than those disclosures that meet the exception criteria of 45 C.F.R. §164.528.

5.2.4 Business Associate and Subcontractor shall report to Covered Entity any, Security Incident, unauthorized, or improper use or disclosure of any PHI under the terms and conditions of this Agreement or applicable federal and state laws (including breaches of unsecured PHI as required by HIPAA) as soon as practicable, but in no event later than two (2) days of the date on which Business Associate (or Business Associate disclosee, as applicable) becomes aware of such use or disclosure.

5.3 Breach of System Security. For purposes of this Section 5.3, “Breach of System Security” means an unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data and includes any other definition promulgated by state law.

5.3.1 To the extent Business Associate owns or licenses computerized data that includes sensitive personal information, Business Associate shall disclose any breach of system security, after discovering or receiving notification of the breach, Business Associate shall provide notice of the Breach to Covered Entity immediately, but in no event more than two (2) days after discovery. Business Associate shall be liable for unreasonable delays in reporting to Covered Entity.

5.3.2 In the event of a Breach of System Security, Business Associate shall, in consultation with Covered Entity and at Covered Entity’s direction, assist Covered Entity in conducting a risk assessment of the Breach of System Security, provide notice as required by Texas law and upon approval of Covered Entity, mitigate, to the extent practicable, any harmful effect of such Breach of System Security known to Business Associate. For purposes of this Agreement, a Breach of System Security shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate (including any person, other than the individual committing the breach, who is an employee, officer, or other agent of Business Associate, as determined in accordance with the federal common law of agency) or should reasonably have been known to Business Associate following the exercise of reasonable diligence. Business Associate shall solely incur all costs associated with mitigation and public or individual notice efforts.
6. **TERM AND TERMINATION**

6.1 **General Term and Termination.** This Agreement shall become effective on the Effective Date set forth above and shall terminate upon the termination or expiration of the Service Agreement and when all PHI provided by either party to the other, or created or received by Business Associate on behalf of Covered Entity is, in accordance with Section 8 below, destroyed or returned to Covered Entity or, if it is not feasible to return or destroy PHI, protections are extended to such information, in accordance with the terms of this Agreement.

6.2 **Material Breach**

6.2.1 Where Covered Entity has knowledge of a material breach by Business Associate, Covered Entity may terminate this Agreement.

6.2.2 At the expense of Business Associate, Covered Entity shall have the right to cure any breach of Business Associate’s obligations under this Agreement. Covered Entity shall give Business Associate notice of its election to cure any such breach, and Business Associate shall cooperate fully in the efforts by Covered Entity to cure Business Associate’s breach. All requests for payment for such services of Covered Entity shall be paid within thirty (30) days. For purposes of clarification, Business Associate acknowledges it is responsible for Subcontractor and Downstream Subcontractor actions and omissions.

7. **EQUITABLE REMEDIES**

7.1 Business Associate acknowledges and agrees that Covered Entity will suffer irreparable damage upon Business Associate’s breach of this Agreement, and that such damages shall be difficult to quantify.

7.2 Business Associate acknowledges and agrees that Covered Entity may file an action for an injunction to enforce the terms of this Agreement against Business Associate, in addition to any other remedy Covered Entity may have. Where Covered Entity has knowledge of any material breach by Business Associate, Covered Entity may take proceedings against Business Associate before any Court having jurisdiction to obtain an injunction or any legal proceedings to cure or stop such material breach.

8. **RETURN/DESTRUCTION OF PROTECTED HEALTH INFORMATION UPON TERMINATION.** Upon termination of this Agreement for any reason, Business Associate shall:

8.1 If feasible, return or destroy all PHI received from, or created or received by Business Associate on behalf of Covered Entity that Business Associate or any of its directors, officers, Subcontractors, employees, affiliates, agents, and representatives still maintain in any form, and Business Associate shall retain no copies of such information; or

8.2 If Covered Entity determines that such return or destruction is not feasible, extend the protections of this Agreement to such information and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible, in which case Business Associate’s obligations under this Section shall survive the termination of this Agreement.

8.3 Business Associate agrees that all paper, film, or other hard copy media shall be shredded or destroyed such that it may not be reconstructed, and EPHI shall be purged or destroyed concurrent with NIST Guidelines for media sanitization at http://www.csrc.nist.gov/.
9. **AMENDMENT.** If any of the rules or regulations promulgated under HIPAA, HITECH, the Final Omnibus Rule, or state law are amended or interpreted in a manner that renders this Agreement inconsistent therewith, Covered Entity may, on thirty (30) days’ written notice to Business Associate, amend this Agreement to the extent necessary to comply with such amendments or interpretations. Business Associate agrees that it will fully comply with all such regulations promulgated under HIPAA or state law, and that it will agree to amend this Agreement and to amend applicable Subcontractor agreements.

10. **INDEMNIFICATION.** Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, penalties, proceedings, demands, losses and liabilities of any kind (including court costs and attorneys’ fees) brought by a third party, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, employees, affiliates, agents, Subcontractors, Subcontractors’ Downstream Subcontractors, and representatives in connection with the Business Associate’s performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section 10 shall survive the termination of this Agreement.

11. **CONFLICTING TERMS.** In the event any terms of this Agreement conflict with any terms of the Service Agreement, the terms of this Agreement shall govern and control.

12. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall be in Travis County, Texas.

13. **NOTICES.** All notices, requests, approvals, demands and other communications required or permitted to be given under this Agreement shall be in writing and delivered either personally, or by certified mail with postage prepaid and return receipt requested, or by overnight courier to the party to be notified. All communications will be deemed given when received. The addresses of the parties shall be as follows; or as otherwise designated by any party through notice to the other party:

   If to CommUnityCare:
   2115 Kramer Lane, Suite 100
   Austin, Texas 78758
   Attn: Chief Executive Officer
   with a copy to: Chief Risk Officer

   If to Business Associate:
   Attn: ____________________________

14. **DAYS.** All references to the term “days” in this Agreement shall mean business days.

15. **INDEPENDENT CONTRACTORS.** The parties are and shall be independent contractors to one another, and nothing in this Agreement shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Except as expressly provided herein, neither party shall be liable for any debts, accounts, obligations, or other liabilities of the other party.

16. **ASSIGNMENT.** This Agreement shall be binding on the parties and their successors and assigns, provided that neither party shall assign any of its rights under this Agreement to any other party without the prior written consent of the other party.

17. **SEVERABILITY.** In the event that any court or any governmental authority or agency declares all or party of any section of this Agreement to be unlawful or invalid, such unlawfulness or invalidity shall not serve to invalidate any other section of this Agreement, and in the event that only a portion of any section is so declared to be unlawful or invalid, such unlawfulness or invalidity shall not serve to invalidate the balance of such section.

18. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

   **IN WITNESS WHEREOF,** each of the undersigned has duly executed this Agreement on behalf of the party and on the date set forth below.

   **COMMUNITYCARE:**

   **BUSINESS ASSOCIATE:**
By: ____________________________
Name: Jaeson T. Fournier, DC, MPH
Title: President and Chief Executive Officer
Date: ____________________________

By: ____________________________
Name: ____________________________
Title: ____________________________
Date: ____________________________
Respondent must provide three (3) reference from customers for whom the Respondent has provided services of the same nature and type as those outlined in this solicitation. References submitted must be for services provided in the past two (2) years (from the date of this solicitation). If the Respondent has provided services to CommUnityCare during this timeframe, one of the references may be from a CommUnityCare Contract Manager. The letters of reference must contain sufficient information (i.e., specific times and locations where the Respondent was observed while providing services) in order to verify the Respondent’s experience. In the case of letters not composed by CommUnityCare Contract Managers, each letter must be composed by someone who had direct experience with the provision of services outlined in the letter. Each letter of reference must address each of the following:

1. The Respondent’s responsiveness to requests for service; and
2. The Respondent’s ability to provide services as compared to their agreed upon contract; and

CommUnityCare reserves the right to utilize the letters of reference in determining whether a Respondent is a responsible Contractor/Supplier.

References

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