DVHA Routing Form

Revision Date 5/1/12

Type of Agreement: **Contract** Agreement #: **23423** Form of Agreement: **Amendment** Amendment #: **1**

Name of Recipient: **Capitol Health Associate, LLC** Vendor #: **226060**

Program Manager : **Lisa Dulsky Watkins** Phone #: **802-872-7535**

Agreement Manager: **Kate Jones** Phone #: **802-879-8256**

Brief Explanation of Agreement: **The amendment will update the payment provisions, correct the date of report submission deadline, and update attachment c.**

Start Date: ~~**11/15/2012**~~ 12/7/12 End Date: **11/14/2013** Maximum Amount: **$165,600.00**

Amendments Only: Maximum Prior Amount: **$165,600.00** Percentage of Change: **0.00%**

Bid Process (Contracts Only): ☐ Standard ☐ Simplified ☐ Sole Source ☐ Statutory ☐ Master Contract SOW

Funding Source

Global Commitment 93.778	**$165,600.00**		

Contents of Attached Packet

☒ AA-14 ☒ Attachments A, B, C & F ☐ Attachment G - Academic Research

☐ Sole Source Memo ☐ Attachment D - Modifications to C & F ☐ MOU

☒ Qualitative/Justification Memo ☒ Attachment E - Business Associate Agreement ☐ Other:

Reviewer		Reviewer Initials	Date In	Date Out
DVHA Grant & Contract Administrator	**Kate Jones**	KJ	1/9	1/10
DVHA BO	**Carrie Hathaway**	CH	1/10	1/10
DVHA Commissioner or Designee	**Mark Larson, Commissioner**	ML	1.11.13	1.14.13
AHS Attorney General	**Seth Steinzor, AAG**	SS		1/23/13
Following Approvals for Contracts Only:				
AHS CIO				
AHS Central Office	**Martha Giglio**	MG	1/24	1/24
AHS Secretary				

Vision Account Codes: **$165,000:03410010000/20405/507600/41692 (purchased GC)**

☐ FFATA Entry ☐ Grant Tracking Module Vision PO #: Initials & Date: Approval & B/C:

STATE OF VERMONT CONTRACT SUMMARY AND CERTIFICATION - - - - - - - - - - - Form AA-14 (8/22/11)

Note: All sections are required. Incomplete forms will be returned to department.

I. CONTRACT INFORMATION:

Agency/Department: AHS/ DVHA **Contract #:** 23423 **Amendment #:** 1

Vendor Name: Capitol Health Associates, LLC VISION Vendor No: 226060

Vendor Address: 400 North Capitol Street, NW, Suite 585, Washington, DC 20001

Starting Date: 12/7/2012 **Ending Date:** 11/14/2013 **Amendment Date:** 2/1/2013

Summary of agreement or amendment: This amendment will update payment provisions, correct the date of report submission deadline, and update attachment C.

II. FINANCIAL INFORMATION

Maximum Payable: $165,600.00 Prior Maximum: $ 165,600 NA Prior Contract # (If Renewal):

Current Amendment: ~~$165,600.00~~ $0 Cumulative amendments: $ 0 % Cumulative Change: 0%

Business Unit(s): 3410; ; - [notes:] **VISION Account(s): 507600;**

II. PERFORMANCE INFORMATION

Does this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? ☒ Yes ☐ No

Estimated Funding Split:	G-Fund %	S-Fund %	F-Fund %	GC-Fund 100.00 %	Other %

III. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:

☒ Standard bid or RFP ☐ Simplified Bid ☐ Sole Sourced ☐ Qualification Based Selection ☐ Statutory

IV. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: ☐ Service ☒ Personal Service ☐ Architect/Engineer ☐ Construction ☐ Marketing ☐ Information Technology ☐ Other, describe:

V. SUITABILITY FOR CONTRACT FOR SERVICE

☒ Yes ☐ No ☐ n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VI. CONTRACTING PLAN APPLICABLE:

Are one or more contract or terms & conditions provisions waived under a pre-approved Contracting Plan? ☐ Yes ☒ No

VII. CONFLICT OF INTEREST

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

☐ Yes ☒ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

☒ Yes ☐ No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)

☒ Yes ☐ No I request the Attorney General review this agreement as to form
No, already performed by in-house AAG or counsel: _____ (initial)

☐ Yes ☒ No Agreement must be approved by the Comm. of DII; for IT hardware, software or services and Telecommunications over $100,000

☐ Yes ☒ No Agreement must be approved by the CMO; for Marketing services over $15,000

☐ Yes ☒ No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)

☐ Yes ☒ No Agreement must be approved by the Secretary of Administration

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

NA 1/24/12

I have made reasonable inquiry as to the accuracy of the above information:

1.14.13 [signature] N/A

Date Agency / Department Head Date Agency Secretary or Other Department Head (if required)

1/23/13

Date Approval by Attorney General Date Approved by Commissioner of Human Resources

Date CIO Date CMO Date Secretary of Administration

AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Capitol Health Associates (hereafter called the "Contractor") that the contract on the subject of personal services demonstrating and refining a clinician centered approach to building Health Information infrastructure, effective December 7, 2012, is hereby amended effective February 1, 2013, as follows:

1. By deleting on page 5 of 20, Section 1, Attachment B (Payment Provisions) and substituting in lieu thereof the following Section 1:

1. The Contractor's invoices shall be submitted no more frequently than monthly, but no later than quarterly, and shall include the number of hours worked during the specified billing period and the total amount billed. The State shall pay the Contractor at the rate of $200 per hour for the Project Manager/Lead Consultant and $150 per hour for an HIT Subject Matter Expert. The estimated budget for these services is $8,333.33 per month in combined billable hours not to exceed the amount of $100,000 total. The Contractor must produce a progress report by May 14, 2013 showing three (3) completed (100% complete) Sprint projects and at least three (3) in process (≥50% complete) Sprint projects. If the Contractor is unable to meet these requirements, the State will impose a 10% retainage penalty against the Contractor until the Contractor can provide evidence that they have met these requirements and each completed Sprint project is rated as satisfactory.

The estimated travel budget is set at $1,000 per trip for a total not to exceed $12,000. The State will be billed the actual documented cost of each trip. Reasonable expenses for State approved travel will be reimbursed on an as-incurred basis at the state required per diems and limits as outlined in Bulletin 3.4. The Contractor will not be reimbursed for other expenses, including supplies, benefits, or insurance.

The estimated budget for the completion of each Sprint is $4,360, assuming ten Sprint projects, totaling a maximum of $43,600. Satisfactory completion of each Sprint project will be determined by the State using measures outlined in this agreement.

Upon State approved and successful completion of Task 2, the Contractor may invoice the State up to an amount of $10,000. Successful completion of Task 2 will be determined by the State using measures outlined in this agreement.

2. By deleting on page 7 of 20, Attachment C (Customary Provisions for Contracts and Grants) in its entirety and substituting in lieu thereof the following Attachment C:

ATTACHMENT C
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement.** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

2. **Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.

3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.

4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.

5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

   The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

   After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

   The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance**: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

   Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

   General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

   Premises - Operations
   Products and Completed Operations
   Personal Injury Liability
   Contractual Liability

   The policy shall be on an occurrence form and limits shall not be less than:

   $1,000,000 Per Occurrence
   $1,000,000 General Aggregate
   $1,000,000 Products/Completed Operations Aggregate
   $ 50,000 Fire/ Legal/Liability

   Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

   Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: $1,000,000 combined single limit.

   Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

   Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of ***$ N/A*** per occurrence, and ***$ N/A*** aggregate.

8. **Reliance by the State on Representations**: All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.

9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a single audit is required for the prior fiscal year. If a single audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

   A single audit is required if the subrecipient expends $500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a single audit is required.

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

11. **Fair Employment Practices and Americans with Disabilities Act**: Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

12. **Set Off**: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

13. **Taxes Due to the State**:

    a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

    b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

    c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

    d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the

time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. **Child Support**: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

    a. is not under any obligation to pay child support; or
    b. is under such an obligation and is in good standing with respect to that obligation; or
    c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

    Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. **Sub-Agreements**: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

    Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

16. **No Gifts or Gratuities**: Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

17. **Copies**: All written reports prepared under this Agreement will be printed using both sides of the paper.

18. **Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

    Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: http://bgs.vermont.gov/purchasing/debarment

19. **Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of $1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

This amendment consists of 6 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#23423) dated February 1, 2013 shall remain unchanged and in full force and effect.

STATE OF VERMONT

DEPARTMENT OF VERMONT HEALTH ACCESS

E-SIGNed by Mark Larson
on 2013-Jan-30

MARK LARSON, COMMISSIONER DATE

CONTRACTOR

CAPITOL HEALTH ASSOCIATES, LLC

E-SIGNed by Hans Kastensmith
on 2013-Jan-30

HANS KASTENSMITH, DATE
MANAGING PARTNER, CAPITOL HEALTH ASSOCIATES