



**STATE OF COLORADO
DEPARTMENT OF HUMAN SERVICES CONTRACT**

SIGNATURE AND COVER PAGES

<p>State Agency Colorado Department of Human Services Office of Children, Youth and Families Division of Youth Corrections</p>	<p>Contractor City and County of Denver Second (2nd JD) Contractor's State of Incorporation: Colorado</p>
<p>Contract Maximum Amount Initial Term State Fiscal Year 2019 \$1,326,352.28 Extension Terms "None" Total Maximum Amount \$1,326,352.28 *Subject to the GAE provision in Exhibit A, Section IV-A</p>	<p>Contract Performance Beginning Date The later of the Effective Date or 7/01/2018 Initial Contract Expiration Date 6/30/2019 Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 4 Years from its Performance Beginning Date.</p>
<p>Pricing/Funding Price Structure: Cost Reimbursement Contractor shall invoice: Bi-Weekly (twice per month) Fund Source: State General Funds and Cash Funds</p>	<p>Options The State shall have the following options if indicated with "Yes," as further described in §2.C and §7.B.vi: Option to Extend Term per §2.C: Yes Option to Increase or Decrease Maximum Amount per §7.B.vi: Yes</p>
<p>Insurance Contractor shall maintain the following insurance if indicated with "Yes," as further described in §12: Worker's Compensation: Yes General Liability: Yes Automobile Liability: Yes Protected Information: Yes Professional Liability Insurance: No Crime Insurance: No</p>	<p>Miscellaneous Authority to enter into this Contract exists in: C.R.S. § 19-2-403, 19-2-410, -211 -302, -911, -1203. Law-Specified Vendor Statute (if any): NA Procurement Method: Request for Proposals (RFP) Solicitation Number (if any): IKAA 2017 62</p>
<p>State Representative Maurice Williams, Central Regional Director Division of Youth Services 4120 South Julian Way Denver, CO 80236 Phone: 303.866.7850</p>	<p>Contractor Representative Michael B. Hancock, Mayor City and County of Denver 303 West Colfax Avenue, Department #1000 Denver, CO 80204 Phone: 720. 913.4615</p>

Exhibits

The following Exhibits are attached and incorporated into this Contract:

Exhibit A- Statement of Work

Exhibit B- CYDC and MTR Juvenile Services Plan and Fixed Budget and Contract Maximum

Exhibit C- CYDC and MTR Juvenile Services Plan and Variable Budget to be included in separate GAE. Neither maximum amount or line item amounts are governed by this contract.

Exhibit D- HIPAA Business Associate Addendum

Purpose

In accordance with the provisions of this contract and its exhibits and attachments, the Contractor shall: Provide fiscal agent services for community based alternatives to secure detention services for delinquent youth in the Second (2nd) Judicial District. These services will be in accordance with the Colorado Youth Detention Continuum (CYDC) and MTR Juvenile Services Plan Budgets.

Signature Page begins on next page →

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

<p>CONTRACTOR City and County of Denver</p> <hr/> <p>By: Michael B. Hancock, Mayor</p> <p>Date: _____</p>	<p>STATE OF COLORADO John W. Hickenlooper, Governor Department of Human Services Reggie Bicha, Executive Director</p> <hr/> <p>By: Al Estrada, Division of Youth Services Associate Director</p> <p>Date: _____</p>
<p>2nd State or Contractor Signature if Needed</p> <hr/> <p>By: _____</p> <p>Date: _____</p>	<p>LEGAL REVIEW Cynthia H. Coffman, Attorney General</p> <hr/> <p>By: _____ Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Clint Woodruff / Andrea Eurich / Travis Yoder</p> <p style="text-align: center;">Effective Date: _____</p>	

-- Signature and Cover Pages End --

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1. PARTIES

This Contract is entered into by and between Contractor named on the Signature and Cover Pages for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the Department of Human Services (the “State” or “CDHS”). Contractor and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Pages for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Signature and Cover Pages for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State's Option

If the Signature and Cover Pages for this Contract shows that the State has the Option to Extend Term, then the State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §23 "Sample Option Letter." The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract. Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 years from its Performance Beginning Date absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in §16, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. This subsection shall not apply to a termination of this Contract by the State for breach by Contractor, which shall be governed by §14.A.i.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §14.A.i.a.

iii. Payments

If the State terminates this Contract in the public interest, the State shall pay Contractor an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Contract is less than 60% completed, as determined by the State, the State may reimburse Contractor for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Contract, incurred by Contractor which are directly attributable to the uncompleted portion of Contractor's obligations, provided that the

sum of any and all reimbursement shall not exceed the maximum amount payable to Contractor hereunder.

3. RESERVED

4. RESERVED

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Business Day”** means any day other than Saturday, Sunday, or a Legal Holiday as listed in §24-11-101(1) C.R.S.
- B. **“Chief Procurement Officer”** means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202(6), C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.
- C. **“CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under 24-72-302 C.R.S.
- D. **“Contract”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- E. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- F. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- G. **“End of Term Extension”** means the time period defined in §2.D.
- H. **“Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract.
- I. **“Exhibits”** means the exhibits listed on the Signature and Cover Pages and attached to this Contract.
- J. **“Extension Term”** means the time period defined in §2.C.
- K. **“Goods”** means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- L. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- M. **“Initial Term”** means the time period defined in §2.B.

- N. **“Party”** means the State or Contractor, and **“Parties”** means both the State and Contractor.
- O. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- P. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S.
- Q. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- R. **“Services”** means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.
- S. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA.
- T. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- U. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- V. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- W. **“Subcontractor”** means third-parties, if any, engaged by Contractor to aid in performance of the Work.
- X. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- Y. **“Work”** means the Goods delivered and Services performed pursuant to this Contract.
- Z. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans,

notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. STATEMENT OF WORK

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of the Exhibits. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

7. PAYMENTS TO CONTRACTOR

A. Maximum Amount

Payments to Contractor are limited to the unpaid, obligated balance of the Contract Funds. The State shall not pay Contractor any amount under this Contract that exceeds the Contract Maximum for that term shown on the Signature and Cover Pages for this Contract.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Contractor in the amounts and in accordance with the Exhibits.
- b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Contract.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the State in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the

determination or calculation of the payment by the State. The State will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Contractor beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Contract Funds the State's obligation to pay Contractor shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the State's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may, upon written notice, terminate this Contract, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Contract were terminated in the public interest as described in §2.E.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor. The State may recover such payments by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

vi. Option to Increase Maximum Amount

If the Signature and Cover Pages for this Contract show that the State has the Option to Increase or Decrease Maximum Amount, then the State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Contract, and increase the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §23 "Sample Option Letter." Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract. The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract.

8. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to §19 or pursuant to any other Exhibit, for any contract having a term longer than 3 months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than 5 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within 5 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance Outside the State of Colorado or the United States, §24-102-206 C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §16, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this §8.C shall constitute a breach of this Contract. This §8.C shall not apply if the Contract Funds include any federal funds.

9. CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: (i) the date 3 years after the date this Contract expires or is terminated, (ii) final payment under this Contract is made, (iii) the resolution of any pending Contract matters, or (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Audit Report

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor's records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, any and all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law, or approved in Writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Addendum attached to this Contract. Contractor shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return

State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that none of Contractor or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State, at no additional cost to the State.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Contract.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

D. Contractor shall maintain a written conflict of interest policy. Contractor shall provide the written conflict of interest policy to the State upon request.

12. INSURANCE

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract to the extent that such insurance policies are required as shown on the Signature and Cover Page for this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.
- iii. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 10 or fewer individuals or revenues of \$250,000 or less, Contractor shall maintain limits of not less than \$50,000.
- iv. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 25 or fewer individuals or revenues of \$500,000 or less, Contractor shall maintain limits of not less than \$100,000.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

H. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.

I. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §16 within 7 days of Contractor's receipt of such notice.

J. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

K. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintain at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

L. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within 7 Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in the Contract in order to protect the public interest of the State.

14. REMEDIES

A. State's Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §13.B., shall have all of the remedies listed in this §14.A. in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Contractor's uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Contractor for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Contract had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

At any time, regardless of whether Contractor is in breach, demand immediate removal of any of Contractor's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other

intellectual property right, Contractor shall, as approved by the State, (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §13.B and the dispute resolution process in §15, shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDHS as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

16. NOTICES AND REPRESENTATIVES

Each individual identified on the Signature and Cover Pages shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Contractor hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Contractor cannot make any of the assignments required by this section, Contractor hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act (as applicable), 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 shall apply. Contractor agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-601, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Contractor's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS**A. Assignment**

Contractor's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the State shall be subject to the provisions of this Contract

B. Subcontracts

Unless other restrictions are required elsewhere in this Contract, Contractor shall not enter into any subcontract in connection with its obligations under this Contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any Work after that Subcontractor's subcontract has been rejected by the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in §20.A., all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

H. Jurisdiction and Venue

All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

K. Order of Precedence

In the event of a conflict or inconsistency between this Contract and any Exhibits or attachments such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. HIPAA Business Associate Addendum (if any).
- ii. Colorado Special Provisions in §21 of the main body of this Contract.
- iii. The provisions of the other sections of the main body of this Contract.
- iv. Any other Exhibit(s) shall take precedence in alphabetical order.

L. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of the Contract.

M. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of the Contract and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.* C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Contract.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §20.B., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-103.5-101 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

T. Indemnification

i. Applicability

This entire §20.T does not apply to Contractor if Contractor is a “public entity” within the meaning of the GIA.

ii. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

iii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §10 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §10.

iv. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

These Special Provisions apply to all contracts except where noted in italics.

A. CONTROLLER'S APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of

its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Contract or incorporated herein by reference shall be null and void.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

22. DEPARTMENT OF HUMAN SERVICES PROVISIONS

A. Exclusion, Debarment and/or Suspension.

Contractor represents and warrants that Contractor, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a “federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. If Contractor, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Contract, Contractor shall notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the State may immediately terminate this Contract.

B. Emergency Planning.

If Contractor provides Work that is an extension of State work performed as part of the State of Colorado Emergency Operations Plan or for a publicly funded safety net program, as defined by C.R.S. § 24-33.5-701 et seq., Contractor shall perform the Work in accordance with the State’s Emergency Operations Plan or continuity of operations plan in the event of an emergency. If requested, Contractor shall provide a plan and reporting information to ensure compliance with the State’s Emergency Operations Plan and C.R.S. § 24-33.5-701 et seq.

C. Restrictions on Public Benefits.

If applicable, Contractor shall comply with C.R.S. §§ 24-76.5-101 – 103 exactly as the State is required to comply with C.R.S. §§ 24-76.5-101 – 103.

D. Discrimination

Contractor shall not:

- i. discriminate against any person on the basis of race, color, national origin, age, sex, religion or handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions.
- ii. exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.

Any person who thinks he/she has been discriminated against as related to the performance of this Contract has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-301, et seq.

E. Criminal Background Check:

Pursuant to C.R.S. §27-90-111 and CDHS Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:

- i. submit to and successfully pass a criminal background check, and

- ii. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.

Any Contractor or its agent(s), who does not comply with C.R.S. §27-90-111 and DHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.

F. Fraud Policy.

Contractor shall comply with the current CDHS Fraud Policy, which can be found at:

<https://sites.google.com/a/state.co.us/cdhs-oas/home/financial-services/contracts>.

G. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy):

Without any additional cost to the State, Contractor shall collect and maintain Contract performance data, as determined solely by the State. Upon request, Contractor shall provide the Contract performance data to the State. This provision does not allow the State to impose unilateral changes to performance requirements.

23. SAMPLE OPTION LETTER (IF APPLICABLE)

State Agency Insert Department's or IHE's Full Legal Name	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Contractor Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	Original Contract Number Insert CMS number or Other Contract Number of the Original Contract
Current Contract Maximum Amount Initial Term State Fiscal Year 20xx \$0.00	Option Contract Number Insert CMS number or Other Contract Number of this Option
Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00	Contract Performance Beginning Date The later of the Effective Date or Month Day, Year
Total for All State Fiscal Years \$0.00	Current Contract Expiration Date Month Day, Year

1. OPTIONS:

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Contract
- C. Option to change the quantity of Services under the Contract
- D. Option to modify Contract rates
- E. Option to initiate next phase of the Contract

2. REQUIRED PROVISIONS:

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Contract, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in Exhibit/Section Number/Letter. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Contract Maximum Amount:** The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

3. OPTION EFFECTIVE DATE:

- A. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE</p> <p style="text-align: center;"><u>SAMPLE ONLY – DO NOT SIGN</u> By: Name & Title of Person Signing for Agency or IHE</p> <p style="text-align: center;">Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>	<p>In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p style="text-align: center;"><u>SAMPLE ONLY – DO NOT SIGN</u> Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p>Option Effective Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>
---	--

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

<p>CONTRACTOR City and County of Denver</p> <hr/> <p>By: Michael B. Hancock, Mayor</p> <p>Date: _____</p>	<p>STATE OF COLORADO John W. Hickenlooper, Governor Department of Human Services Reggie Bicha, Executive Director</p> <hr/> <p>By: Al Estrada, Division of Youth Services Associate Director</p> <p>Date: _____</p>
<p>2nd State or Contractor Signature if Needed</p> <hr/> <p>By: _____</p> <p>Date: _____</p>	<p>LEGAL REVIEW Cynthia H. Coffman, Attorney General</p> <hr/> <p>By: _____ Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER Robert Jaras, CPA, MBA, JD</p> <p>By: _____ Clint Woodruff / Andrea Eurich / Travis Yoder</p> <p>Effective Date: _____</p>	

-- Signature and Cover Pages End --

The city will sign first.



Exhibit A

STATEMENT OF WORK

I. Work Requirements

- A. The Contractor, under the direction of the **Second (2nd) Judicial District Juvenile Services Planning Committee**, and pursuant to Colorado Revised Statutes 19-2-211, 19-2-302, and 19-2-310, shall implement the Juvenile Services Plan developed for the judicial district by such committee. The goals of this plan shall be to reduce placement or length of stay of delinquent youths in State funded detention centers, and/or to prevent commitment to the Division of Youth Services.
- B. The CYDC Juvenile Services Plan, commonly known as the **Colorado Youth Detention Continuum (CYDC) Plan**, shall be implemented, in accordance with the plan description in Exhibit B- CYDC and MTR Juvenile Services Plan Fixed Expense Budget which determines the maximum amount of this contract, and Exhibit C- CYDC and MTR Juvenile Services Variable Expense Budget which is covered in a separate GAE; exhibit made a part hereof and attached hereto.
- C. The Contractor's designated staff shall enter into the Colorado Trails CYDC database ("Trails") all client and service information required for the statewide evaluation of local CYDC programs. Data shall be entered into Trails no later than 7 calendar days from the time of service. If there are technical Trails-system issues, the Contractor shall immediately request a Trails Helpdesk ticket. Immediately following the closure of the Helpdesk ticket, the Contractor shall enter Trails data. The Contractor shall provide computer hardware and software to staff entering information into the CYDC database that complies with the requirements published by the Department of Human Services for the Colorado Trails system. Such designated staff shall sign confidentiality agreements provided by the State and shall consider all such data to be confidential in accordance with **Provision E.** below.
- D. All records and information maintained by the Contractor pertaining to youths served by the program shall remain confidential and shall not be released to anyone other than the person in interest or the State without specific order of the court with proper jurisdiction. Prior to the release of any information or record, the Contractor shall notify the State. Nothing in this paragraph shall be construed in any way to prevent the Contractor from releasing information to authorized parties during the normal legal conduct of the Contractor's business.
- E. The Contractor acknowledges it is fully bound by the Federal Regulations on the Confidentiality of Alcohol/Drug Abuse Patient Records 42CFR Part 2 when receiving, storing, or otherwise dealing with any information related to a client receiving drug and alcohol treatment services. The Contractor acknowledges that prior to the release of any client's drug and/or alcohol treatment services information, a written document granting permission to release the herein mentioned information must be signed by the client and placed in his/her file.

- F. The Contractor shall comply with CDHS Policy VI-2.4 and DYS Policy 1.6 without limitation and made a part hereof by this reference. CDHS Policy VI-2.4 requires the Contractor and subcontractors to conduct criminal background checks for newly hired direct care staff and to maintain a reporting system and policy for existing direct care staff that violate the rules of the herein mentioned policy. DYS Policy 1.6 addresses the expectations of Contracted Service Providers pertaining to confidentiality of information, child abuse reporting and sexual contact prevention.
- G. Health Insurance Portability & Accountability Act of 1996 (“HIPAA”). Federal law and regulations governing the privacy of certain health information requires a “Business Associate Contract” between the State and the Contractor. 45 C.F.R. Section 164.504(e). Attached and incorporated herein by reference and agreed to by the parties is a **HIPAA Business Associate Addendum** for HIPAA compliance as **Exhibit D**. Terms of the Addendum shall be considered binding upon execution of this contract and shall remain in effect during the term of the contract including any extensions.
- H. Incorporated by reference and agreed to by the parties, the following shall be considered binding upon execution of this contract and shall remain in effect during the term of the contract including any extension:
If this contract includes a HIPAA Business Associates Addendum exhibit, Contractor shall obtain and maintain during the term of this Contract liability insurance covering all loss of Protected Health Information data and claims based upon alleged violations of privacy rights through improper use or disclosure of Protected Health Information with minimum annual limits as follows:
1. Contractors with 10 or less clients or revenues of \$250,000 or less shall maintain limits on Privacy Liability Insurance of not less than \$50,000.
 2. Contractors with 25 or less clients or revenues of \$500,000 or less shall maintain limits on Privacy Liability Insurance or not less than \$100,000.
 3. Contractors with more than 25 clients or revenues of more than \$500,000 shall maintain limits on Privacy Liability Insurance or not less than \$1,000,000.
- I. The Contractor agrees to attend annual and on-going training, as identified and coordinated by DYS Colorado Youth Detention Continuum Coordinator, for the Colorado Juvenile Risk Assessment (CJRA).
- J. The Contractor shall allow the State and the **Second (2nd) Judicial District** Juvenile Services Planning Committee to review any and all fiscal records relevant to the program, including all direct charges and overhead/indirect charges, and provide fiscal information to the State or the Judicial District Juvenile Services Planning Committee when requested to do so.
- K. **Tangible personal property** with a useful life of more than one year and an acquisition cost of more than FIVE HUNDRED DOLLARS (\$500.00) whether capitalized or not capitalized, that is purchased through funds provided by this contract, at the request of the State, must be transferred to any party specified by the State within thirty (30) days of such time as the Contractor is no longer providing services through the CYDC program. The party receiving the equipment shall be responsible for any transportation required to obtain the equipment.

- L. The State shall establish billing procedures for payment due the Contractor in providing services pursuant to this contract, based on the submission of monthly expenditure statements, on forms prescribed by the State, in accordance with the **budget** information included in **Exhibit B and Exhibit C**.

The twice a month billing for services provided shall be submitted by the 5th and the 20th of the month following the month of service, on forms prescribed by the State, in accordance with the budget, Exhibit C. All billings shall be submitted to, and eligible expenditures approved by, the DYS Northeast Region Contract Manager. Bills shall be returned unpaid if the bills do not conform to the approved format or the documentation to support the invoice is inadequate.

During the final month of the contract period, the Contractor shall perform a reconciliation of contract payments received and total contract expenditures. The final billing shall reflect the remaining balance of the total expenditures for the term of the contract/State fiscal year.

- M. It is understood and agreed that in the event payment is authorized and received for services provided through this contract, to any youth not eligible for CYDC services, the Contractor shall refund the payment made for those services forthwith.
- N. Requests for revisions to budget line items of more than ten percent (10%) or deletion or addition of new line items must be submitted in writing by the local Juvenile Services Planning Committee to the appropriate DYS Region Director and the DYS Colorado Youth Detention Continuum Coordinator for written approval prior to implementation. Budget revisions are subject to the limitation of the maximum payable amount stated in **Section IV., Provision A.** below.
- O. The State shall reimburse the Contractor for only the eligible cost of services provided by the Contractor and their authorized subcontractor. The Contractor shall have adequate procedures and controls to ensure that there is no double billing of either units of services and/or salaries and related operating costs to this DYS contract. It is further understood and agreed the Contractor may not receive duplicate payments from any source for the same service. If a duplicate payment for services is made by the State, either by the Division of Youth Services or any other State agency, or by a federal agency; the Contractor shall refund the payments forthwith.
- P. The Contractor shall provide year-end expenditure and inventory reports to the State within forty-five (45) days of the completion of the fiscal year. Such reports shall be submitted on forms prescribed by the State.
- Q. The Contractor shall be responsible to assure that a Juvenile Detention Screening and Assessment Guide (JDSAG) is completed for youth that are referred to detention. Additionally, the Contractor shall assure that a Colorado Juvenile Risk Assessment (CJRA) pre-screen is completed on youth admitted into detention, with 48 hours of admission.

II – Fiscal Agent Services

A. Overall Fiscal Management

1. Accounting Systems

The City and County of Denver (CCD) uses as double entry system which adheres to GAAP standards and has the capability to allocate salary and other related program expenses.

The initial review of program-related expenditures will be completed by the SB94 Coordinator. Upon completion of their review, the SB94 Coordinator will give all approved expenditures to the Program Manager who will review all operational, programmatic and payroll expenditures to ensure each expenditure is allowable based on the contract and contains the appropriate backup to support the expenditure. Once approved by the Program Manager, the expenditures will be given to the fiscal manager within the Department of Safety Office who will allocate the expenditure to the appropriate budget line item in the DYC Excel Budget Development and Tracking System. Prior to distribution of payment, the Program Manager will complete a final review to ensure expenditures have been coded appropriately.

The Program Manager and Fiscal Manager will review financial statements prior to submitting invoices to the Division of Youth Corrections. Financial statements, based on the specific program area, will be given to the SB94 Coordinator and the identified service provider for their review and for record keeping. In the event there is a discrepancy in regard to financial reporting, the Program Manager will review the discrepancy with the SB94 Coordinator and service provider to resolve the issue in a timely manner. A monthly financial report will be provided to the SB94 Coordinator which will be reviewed with the Program Manager. The report will also be provided to the Juvenile Services Planning Committee (JSPC) for distribution at the monthly JSPC meetings. The Program Manager will provide an oral report out on the monthly financial statements and will be available to answer any questions.

2. Cash flow

CCD will use appropriated city dollars to cover all SB94 expenditures which will expedite payment to service providers as well as ensure all SB94 staff are paid according to the city payroll schedule.

B. Employment Services

3. Quality assurance

CCD agrees to provide employment services for all SB94 staff positions that are included in the annual plan. This will include the establishment of expected performance outcomes specific to the essential duties of each position. Performance evaluations will be completed on an annual basis for all employees and the CCD will work with the JSPC to complete an annual performance evaluation of the SB94 Coordinator.

4. Role with JSPC

A monthly report will be prepared and provided to the SB94 Coordinator and the JSPC that details all personnel expenditures for review at the monthly JSPC meetings. CCD will work with the SB94 Coordinator and the JSPC to revise work duties as needed and will assist with the recruitment and on boarding of any new hires.

5. HR attachments

Benefit elections are effective in the first of the month following date of hire. Employees can track benefits and make changes to benefits if available through the Workday system.

Medical Insurance

CCD provides multiple options for employees and their dependents in regard to their health care plan.

CCD offers a Deductible HMO (DHMO) or a High Deductible Health Plan (HDHP) while providing employees with three choices of health care providers with this selected option including:

- Denver Health
- Kaiser Permanente
- United Healthcare

CCD offers a Health Savings Account (HSA) option for employees that establishes an individually-owned bank account that allows the employee to pay for eligible medical, dental and vision expenses with pre-tax dollars.

CCD offers employees the option of opening a Flexible Spending Account (FSA) where money is set aside on a pre-tax basis from the employees' paycheck to cover medical, dental, vision, dependent day care and qualified parking expenses.

CCD also offers three options for dental plans through Delta Dental of Colorado including PPO High and PPO Low plans and an EPO plan that only provides benefits if the employee or dependent visits a Delta Dental PPO dentist in Colorado.

CCD also offers a competitive Vision Plan.

Life and Disability Insurance

Life Insurance

CCD offers several life insurance policy options. All employees are automatically enrolled in a basic life insurance policy and are eligible to voluntarily enroll in additional life policies. Additional life insurance can be purchased for the employee to supplement the basic life insurance policy and/or additional life coverage can be purchased for a spouse and /or children. Accidental Death and Dismemberment (AD&D) coverage is an optional benefit available to employees which is paid for entirely by the employee.

Disability Insurance

CCD offers short-term and long-term disability benefits through the Standard Insurance Company.

Short-Term Disability is available to protect employee income in the event of an accident or injury. The CCD pays the full cost of the premiums for short-term disability insurance and the employee is automatically enrolled into this benefit and it is effective upon hire. After 14 consecutive calendar days of total disability, short-term disability payments will begin. The benefit pays 70% of the employees' weekly pre-disability earnings to a maximum of \$1,500.

Long-Term Disability is also covered in full by the CCD and employees are automatically enrolled in this benefit and it is effective upon hire. If an employee is partially or totally disabled for more than 180 days, the benefit pays 60% of the employees' pre-disability earnings to a monthly maximum of \$6,000.

Retirement Planning

CCD employees are automatically enrolled in the Denver Employees Retirement Plan (DERP) with current contributions set at 11.5% of the employees' total gross salary paid by the CCD and 8% of employee total gross salary paid by the employee on a pre-tax basis. An employee becomes vested after 5 years of credited service.

CCD employees also have the option to voluntarily enroll in a Deferred Compensation Plan 457(b) through TIAA Financial Services. Employees who choose to open this type of account may elect payroll deductions on a pre-tax and/or after-tax (Roth) basis. The CCD does not match deferred compensation contributions.

Paid Time Off (PTO) / Holiday Leave

CCD employees accrue PTO based on the completed years of service chart established in the CCD Career Service Authority Rule 10.

The breakdown of PTO hours accrued is as follows:

<u>Years of Service</u>	<u>PTO Hours Accrued Per Month</u>
0-.5 years	10 hours per month
.5-5 years	12 hours per month
5-10 years	15 hours per month
10-15 years	18 hours per month
15 + years	19 hours per month

CCD recognizes 10 holidays during the year and a personal holiday that is available to be used by the employee on an agreed upon date by the employee and supervisor. CCD recognized holidays include (dates are for 2017):

New Year's Day (January 1)
 Martin Luther King Jr. Day (January 16)
 President's Day (February 20)
 Cesar Chavez Day (March 27)
 Memorial Day (May 29)
 Independence Day (July 4)
 Labor Day (September 4)
 Veterans Day (November 10)
 Thanksgiving Day (November 23)
 Christmas Day (December 25)

C. Subcontracts

6. Quality Assurance for provision of services

The City and County of Denver has a well-defined process for developing and executing subcontracts with service providers. Based on the service needs identified by the SB94 Coordinator and/or the JSPC, DPSYP would draft a statement of work clearly detailing all sub-recipient expectations and methods of tracking compliance for review and approval of sub-recipient. Once the statement of work is approved, DPSYP will work with the City Attorney's Office to draft the sub contract or MOU. All contracts are entered into the CCD's Alfresco system where the workflow process to obtain all internal signatures and approval for the contract. All subcontractors must agree to the following protocol for the monitoring on subcontracts:

- DPSYP staff and SB94 Coordinator will meet with sub-recipient/agency staff prior to the release of funding. This meeting will include a review of sub-recipient programmatic, fiscal, and contractual requirements and sub-recipient monitoring and reporting guidelines.
- Contracts with the City and County of Denver will contain a clause stating all financial are open for inspection and Audit. Failure to comply can result in the contract being canceled.
- All contracts will include the required CDHS, DYC contract provisions as required in the RFP.
- Desk monitoring will be conducted on a regular basis upon receipt of each invoice submitted by the sub-recipient agency to ensure proper accounting of SB94 funds.
- Sub-recipients/agencies will have a formal on-site fiscal monitoring at least once a year or once during the term of the grant period (based upon the risk assessment.)
- Risk analysis will be performed on an annual basis to determine if, and when, any additional monitoring is required.
- The contractor is required to have an annual audit of their financials once they have received \$400,000 or more of federal or state funding. A copy of the audit along with the audited financials, findings, and corrective action shall be received within 6 months after the end of the contractors' fiscal year end.
- In the event the audited financials are not received there will be no reimbursement of funds until the copy of the audit is received.
- Specific to contracts with the State of Colorado, the Department of Safety has included the language below to advise the sub-recipient of their requirements to

adhere to the terms and conditions of the contract including the indemnification clause.

- o **Subject to State Contracts:** This Agreement is subject to the terms and conditions of the said Department of Public Safety, Division of Criminal Justice, FY 2016/2017 Community Corrections Contract with the City, and the State Department of Corrections 2017/2018 Community Corrections Contract with the City, as they may be amended or modified by allocation letters or funding letters, all of which are incorporated herein by reference as **Exhibit A**. The Contractor is advised to carefully review the terms and conditions of such State Contracts.

DPSYP will provide regular updates regarding the status of sub-recipient contracts and when necessary will include the SB94 Coordinator and the JSPC when/if contractors are not meeting the agreed up on expectations as set forth in the contract or MOU.

7. Quality Assurance for following policy 3.21 and insurance
 CCD is willing and able to comply with this DYC contractual requirement. CCD Executive Order No. 135 details the CCD policy regarding the use of background checks in hiring and employment decisions. Specific provisions in the Executive Order No. 135 that are applicable include:

Section 2.5: The background check for all employees must include at least a criminal background check as defined in section 3.1.1. Section 3.1.1 states a criminal background check must include:

- Social Security Trace
- Federal Criminal Records (including wants, warrants, arrests, convictions, and incarceration).
- Colorado Criminal Records (including wants, warrants, arrests, convictions, and incarceration).
- Sex Offender Registry

Additional types of background checks may be required and/or permitted depending on the type of position and nature of the duties performed. Additional background checks may include but are not limited to: employment history verifications, drug testing, education and degree verification, motor vehicle record, finger printing, and child abuse/neglect registry.

III. Performance Management

A. Performance Measures Overview

1. The Performance Measures Process. As set forth and defined herein, “Performance Focus” is a performance-based analysis strategy the Parties shall use in association with the Contractor’s performance hereunder that allows the Parties to better focus on and improve performance outcomes to obtain maximum benefits from the work of the Contractor under this Contract. By identifying areas of focus, the Parties intend to and shall determine what

aspects of the Contractor’s performance hereunder are working and what aspects of said performance need improvement. By measuring the impact of day-to-day work of the Contractor hereunder, the Parties will be able to make more informed collaborative decisions to align the work of the Contractor to affect more positive performance outcomes and change for the purposes served through this Contract.

2. **Performance Focus Meetings.** As determined necessary, dates will be set by the State (after appropriate consultation with the Contractor), to hold Performance Focus meetings for the purpose of review, analysis, planning and action upon the current Performance Measures for the Contract. The respective Regional Director or designee and designated staff shall meet with the Contractor’s designated executive level representatives and designated staff. The Regional Director or designee shall facilitate the Performance Focus meetings, focusing on any of the Performance Measures and associated action items established.

3. **Performance Measures Reports.** Performance Measures Reports shall reflect relevant report data for the Performance Measures identified hereunder to be tracked on an ongoing basis through the Contract Performance Focus process.

The Parties understand and agree that the Performance Measures hereunder shall remain fluid in nature as progress is made and data refined through the Performance Focus process. Performance Measures shall continue to evolve to meet the objective of measuring key performance outcome indicators for the work of the Contractor hereunder. Performance Measures may be changed via an Amendment.

B. Contract Performance Measures.

As to each Performance Measure, the Contractor shall collect data monthly and report this data to the State during Performance Focus meeting dates established between the State and the provider. The Contractor shall report data on any forms developed by the state for the purpose of reporting performance data, and shall use any reporting tools or data collection protocols developed by the state. In the absence of such, the Contractor may report on performance data using tools and documents of their choosing.

The parties have identified and agreed upon the following initial Performance Measures for use by the Parties hereunder.

Performance Measure #1 –

Perform background checks and verify insurance requirements for each vendor and sub-contractor.

Performance Measure #2 –

Each CYDC contract or JD shall be within 10% of YTD spending projections in November, January, and March. If actual expenditures are not within 10%, a written correction plan shall be submitted.

Performance Measure #3 –

Contractors shall submit timely and accurate billing statements, with accurate documentation.

Performance Measure #4 –

Each contractor shall have an annual performance evaluation for their coordinator that includes a 360 degree evaluation to include JSPC, Courts, and DYS.

IV. Additional Provisions

- A. Payment pursuant to this contract shall be made as earned, in whole or in part, from available funds encumbered in an amount not to exceed **One Million Three Hundred Twentysix Thousand, Three Hundred Fiftytwo and 28/100 (\$1,326,352.28)** for the purchase of the within-described services. The liability of the State, at any time for such payments shall be limited to the unspent amount remaining of such encumbered funds. **This maximum amount is for fixed expenses. Variable expenses will be allocated under a General Accounting Encumbrance (GAE) and will be separate from the maximum amount specified in this contract. The variable expense allocation, and any subsequent increases or decreases to the variable expense allocation, will be at the sole discretion of the State subject to the total amount of the GAE. Requests for changes to the variable amount must be submitted in writing and approved by the Senate Bill Coordinator for DYS.**
- B. The Contractor must have in place a double entry accounting system, which complies with generally accepted accounting principles (GAAP). All expenses must be posted to the double entry accounting system. Billings for services must be reconcilable to the double entry accounting system. The contractor must have adequate time keeping and cost allocation systems to allocate salary cost and indirect cost to appropriate cost centers.
- C. The Contractor must have an annual audit of their financial statements (Income Statement, Balance Sheet, and Statement of Cash Flows) by an independent public accounting firm if the Contractor receives \$400,000 dollars or more of state funds. If the Contractor is a government agency that has an independent audit done by another agency of that government, their regular audit meets this requirement. The audit must be completed and a copy provided to DYS Program Services within six (6) months after the end of the Contractor's fiscal year. The audited financial statements must contain supplemental statements providing detailed financial information for the expenditures of this contract. Contractors that are a subsidiary of a parent organization must submit separate financial statements for the subsidiary that detail each of the Contractor's facilities and/or programs that provide services for the Division and also must reconcile with the consolidated statements of the parent organization. In cases where audit deficiencies are noted, a plan of corrective action shall be submitted to DYS for approval within four (4) months of the date of the audit.
- D. If Contractors do not submit their annual audit or refuse to disclose financial information regarding the operation of the program in a timely manner, DYS may withhold payment until the audit and/or requested information is submitted.

- E. The Contractor's financial records shall be open for inspection and audit at reasonable times by an authorized representative of the State. The Contractor must allow the State complete access to all-financial and accounting records pertaining to the operation of the Contractor's program. This shall include but not be limited to inspection of the Contractor's accounting information system and any records related to the Contractor's accounting information system.

- F. Failure to comply with any of these requirements is justification for DYS to terminate this contract.

- G. The State may require continued performance for a period of up to 12 months at the same rates and same terms specified in the Contract. If the State exercises the option, it will provide written notice to Contractor at least 30 days prior to the end of the current contract term in a form substantially equivalent to the **Section 23 of Contract Wizard**. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract. The total duration of this Contract, including the exercise of any options under this clause, shall not exceed One Year.

The State may increase or decrease the quantity of goods/services described in **Exhibit B** based upon the rates established in the Contract. If the State exercises the option, it will provide written notice to Contractor as least 30 days prior to the end of the current contract term in a form substantially equivalent to the Sample Option Letter, **Section 23 of Contract Wizard**. Delivery/performance of the service shall continue at the same rates and terms. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract

- H. Other bilateral modifications to this contract not within the terms of this Exhibit must be executed by formal amendment to the contract approved in accordance with State law.

EXHIBIT B 19 IKAA 109852**Second (2nd) Judicial District****CYDC & MTR Budgets - Fixed**

Code	Category	Description	Contractor	FTE	EBP
1000	Assessment		432,480.17	6.30	
1001	Personnel	Senate Bill 94 services will be utilized to provide screening and intake for youth in the City and County of Denver. Every youth that is arrested in the City and County of Denver is taken to the Juvenile Services Center and is screened by Senate Bill 94 Staff using the JDSAG, CJRA, CRAFFT, and the High Risk Victim Identification Tool. In Denver, only three of five levels for the JDSAG are available as there is no option for shelter placement or staff secure placement. Staff has been utilizing local override policy and being more adept to screening youth home with services when applicable. Senate Bill 94 staff supervise youth who screen to home detention until a decision is made by the court to have those youth either be supervised on Pre-Trial Release or on summons status. Client Assessment/Evaluation Services	424,480.17	6.30	1, 2, 3, 4, 5, 6, 7, 8
1003	Office Supplies	Operating Expense	3,000.00		N/A
1004	Training	Training for staff development	5,000.00		3, 4
1100	Treatment Services		3,000.00		
1103	Training	Training for staff development	3,000.00		3, 4
1200	Direct Support		326,364.23	4.90	

EXHIBIT B 19 IKAA 109852

Second (2nd) Judicial District

1201	Personnel	Personnel under the line item of Direct Support, provide direct support services to pre-adjudicated, adjudicated, and truancy contempt youth and families in Denver. Case Managers confer with attorneys, judges, probation officers and other agency/professionals to compile a social history, reflecting such factors as nature and extent of youth criminality and current social problems. They also analyze collected data and develop/implement action plans for youth on their caseload. Case Managers refer clients to service providers as outlined in action plan or upon identifying client/family needs. Case Managers complete assessments for youth on their caseloads using the CJRA Full Assessment tool for youth released into the community. Case Managers conduct regularly scheduled exploratory	303,364.23	4.90	1, 2, 3, 4, 5, 6, 7, 8
1202	Mileage	Operating Expense	10,000.00		N/A
1203	Office Supplies	Operating Expense	3,000.00		N/A
1204	Training	Training for staff development	10,000.00		3, 4
1400	Supervision		262,211.72	2.40	

EXHIBIT B 19 ICAA 109852

Second (2nd) Judicial District

1401	Personnel	<p>Personnel under the line item of Supervision, provide Supervision services to staff and to pre-adjudicated, adjudicated, and truancy contempt youth and families in Denver. The positions included are: SB94 Director, Interventionist, Administrative Assistant, Pre-Trial Supervisor, Lead Case Manager, and Case Manager.</p> <p>The purpose of the SB94 Director position is to provide monitoring for compliance of 2nd Judicial SB94 programs. The SB94 Director is responsible for the quality control of SB94 funded programs; maintaining appropriate administrative records; and to provide thorough, accurate and timely information, clarification and reporting as requested by the Juvenile Services Planning Committee.</p>	249,211.72	2.40	1, 2, 3, 4, 5, 6, 7, 8
1402	Mileage	Operating Expense	5,000.00		N/A
1403	Office Supplies	Operating Expense	3,000.00		N/A
1404	Training	Training for staff development	5,000.00		3, 4
1600	Plan Administration		144,685.60	0.20	
1601	Fiscal Services	The Fiscal Agent serves as the employer for the Senate Bill 94 Program and provides oversight of the SB94 contract. The Fiscal Agent is responsible for conducting program evaluation and monthly fiscal reports to the Division of Youth Services.	100,230.88		7, 8
1602	JSPC	Operating Expense	15,000.00		7, 8

EXHIBIT B 19 IKAA 109852

Second (2nd) Judicial District

1603	Personnel	<p>The only personnel in this line item is the SB94 Director. The purpose of the SB94 Director position is to provide monitoring for compliance of 2nd Judicial SB94 programs. The SB94 Director is responsible for the quality control of SB94 funded programs; maintaining appropriate administrative records; and to provide thorough, accurate and timely information, clarification and reporting as requested by the Juvenile Services Planning Committee.</p> <p>Provide support for all staff. Provide oversight for the program. Conduct Audits and ensure compliance with all DYC and SB94 standards. Review vendor subcontracts, for monitoring of service delivery, and for completion of quality control audits of all SB94-funded services, including the Intake</p>	23,454.72	0.20	1, 2, 3, 4, 5, 6, 7, 8
1604	Director Phone	Operating Expense	1,000.00		N/A
1605	Office Supplies	Operating Expense	5,000.00		N/A
GRAND TOTAL -CYDC			1,168,741.72	13.80	
MTR Budget - Fixed					
Code	Category	Description	Contractor	FTE	EBP
1000	Assessment		27,453.87	0.40	

EXHIBIT B 19 IKAA 109852

Second (2nd) Judicial District

M1001	Personnel Costs	<p>Personnel costs are utilized to support two staff members: Bishop Robinson and Nellie Dominguez. Bishop Robinson is CAC II certified and Nellie Dominguez is CAC I certified. The team receives monthly clinical supervision with Dr. Elizabeth Sather. The System Navigators do not provide clinical treatment or supervision to clients. The System Navigators provide in-house psychoeducational, non-clinical groups for clients and families. The groups may be focused on prevention/intervention for substance use and anger/aggression management. This unit also assists the Pre-Trial Release Case Managers in urinalysis monitoring, referrals to treatment/services, and non-clinical assessments.</p> <p>The System Navigators assess clients for appropriate services</p>	26,703.87	0.40	1, 2, 3, 4, 7, 8
M1002	Office Supplies	Operating Expense	750.00		N/A
1100	Treatment Services		13,351.94	0.20	

EXHIBIT B 19 IKA 109852

Second (2nd) Judicial District

M1101	Personnel Costs	<p>Personnel costs are utilized to support two staff members: Bishop Robinson and Nellie Dominguez. Bishop Robinson is CAC II certified and Nellie Dominguez is CAC I certified. The team receives monthly clinical supervision with Dr. Elizabeth Sather. The System Navigators do not provide clinical treatment or supervision to clients. The System Navigators provide in-house psychoeducational, non-clinical groups for clients and families. The groups may be focused on prevention/intervention for substance use and anger/aggression management. This unit also assists the Pre-Trial Release Case Managers in urinalysis monitoring, referrals to treatment/services, and non-clinical assessments.</p> <p>The System Navigators refer clients to appropriate services</p>	13,351.94	0.20	1, 2, 3, 4, 5, 7, 8
1200	Direct Support		81,611.61	1.20	

EXHIBIT B 19 IKAA 109852

Second (2nd) Judicial District

M1201	Personnel Costs	<p>Personnel costs are utilized to support two staff members: Bishop Robinson and Nellie Dominguez. Bishop Robinson is CAC II certified and Nellie Dominguez is CAC I certified. The team receives monthly clinical supervision with Dr. Elizabeth Sather. The System Navigators do not provide clinical treatment or supervision to clients. The System Navigators provide in-house psychoeducational, non-clinical groups for clients and families. The groups may be focused on prevention/intervention for substance use and anger/aggression management. This unit also assists the Pre-Trial Release Case Managers in urinalysis monitoring, referrals to treatment/services, and non-clinical assessments.</p> <p>The System Navigators refer clients to appropriate services</p>	80,111.61	1.20	1, 2, 3, 4, 5, 6, 7, 8
M1203	Office Supplies	Operating Expense	1,500.00		N/A
1400	Supervision		14,101.94	0.20	

EXHIBIT B 19 IKAA 109852

Second (2nd) Judicial District

M1401	Personnel Costs	<p>Personnel costs are utilized to support two staff members: Bishop Robinson and Nellie Dominguez. Bishop Robinson is CAC II certified and Nellie Dominguez is CAC I certified. The team receives monthly clinical supervision with Dr. Elizabeth Sather. The System Navigators do not provide clinical treatment or supervision to clients. The System Navigators provide in-house psychoeducational, non-clinical groups for clients and families. The groups may be focused on prevention/intervention for substance use and anger/aggression management. This unit also assists the Pre-Trial Release Case Managers in urinalysis monitoring, referrals to treatment/services, and non-clinical assessments.</p> <p>The System Navigators refer clients to appropriate services</p>	13,351.94	0.20	3, 4, 7, 8
M1403	Office Supplies	Operating Expense	750.00		N/A
1600	Plan Administration		21,091.20		
M1601	Fiscal Services	<p>The Fiscal Agent serves as the employer for the Senate Bill 94 Program and provides oversight of the SB215 contract. The Fiscal Agent is responsible for conducting program evaluation and monthly fiscal reports to the Division of Youth Services.</p>	21,091.20		8
GRAND TOTAL - MTR			157,610.56	2.00	
Total Fixed budget			1,326,352.28		

EXHIBIT C - 19 IKAA 109852

Second (2nd) Judicial District

CYDC & MTR Budgets - Variable

Code	Category	Description	Contractor	FTE	EBP
1000	Assessment		22,769.70		
1002	On-Call Screening	Costs for after-hours screening. Staff are required to pick up one weekend shift per month for on-call screening and intake. Each screen that is completed is paid at \$60/screen. The on-call judge must be contacted for probable cause warrants and arrests that occur on weekends and holidays.	20,000.00		1, 3, 7, 8
1005	RIS	Provided for services to help support youth in the community. The Second Judicial uses Rapid Intervention Services Funds to purchase a variety of approved services that fall under the service type: Assessment Services. Approved referral sources refer youth; or youth are referred following an HB1451 interagency staffing. Funds are sometimes blended with funds from other agencies to fill treatment gaps. Funds may be used to evaluate services and training.	2,769.70		1, 2, 3, 4, 5, 6, 7, 8
1100	Treatment Services		58,138.00		

EXHIBIT C - 19 ICAA 109852

Second (2nd) Judicial District

1101	FamilyStrong	<p>FamilyStrong is a program developed by a collaborative of Denver's child-serving agencies to safely serve youth between the ages of 10-17 and their families who are at risk of out-of-home placement in their own homes and communities.</p> <p>The primary goal of the FamilyStrong program is to meet the needs of youth and their families safely in the community and avoid and/or reduce the detrimental effects of out-of-home placement and detention stays of youth between 10-17 years of age who are involved or at risk of involvement in juvenile justice systems or at risk of entering the child welfare system for reasons other than abuse and neglect.</p> <p>The key components of FamilyStrong are immediate intervention/access to services,</p>	25,000.00	1, 2, 3, 4, 5, 6, 7, 8
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EXHIBIT C - 19 ICAA 109852

Second (2nd) Judicial District

1102	RIS	Rapid Intervention Service Funds are used to pay providers for treatment related services, which may include offense specific treatment, individual treatment, group treatment, assessments, and evaluations. Agreements have been made with a variety of providers who have received appropriate background checks to provide services. With the assistance of the CMP, MOU's have been established to ensure same rate pay among agencies. CMP and Senate Bill 94 have been utilized to provide funding for youth on Denver Juvenile Probation for offense specific treatment.	20,000.00	1, 2, 3, 4, 5, 6, 7, 8
1199	COLA	Flexible spending upon the written authorization of the Senate Bill Coordinator.	13,138.00	
1200	Direct Support		15,229.07	

EXHIBIT C - 19 ICAA 109852

Second (2nd) Judicial District

1205	RIS	Provided for services to help support youth and families in the community. The Second Judicial uses Rapid Intervention Services Funds to purchase a variety of approved services that fall under the service type: Direct Support Services. Approved referral sources refer youth; or youth are referred following an HB1451 interagency staffing. Youth are placed with the most appropriate treatment provider to meet their needs. Funds are sometimes blended with funds from other agencies to fill treatment gaps. Funds may be used to evaluate services and training.	15,229.07	1, 2, 3, 4, 5, 6, 7, 8
1400	Supervision		47,036.81	
1405	RIS	Provided for services to help support youth and families in the community. The Second Judicial uses Rapid Intervention Services Funds to purchase a variety of approved services that fall under the service type: Supervision. Approved referral sources refer youth; or youth are referred following an HB1451 interagency staffing. Youth are placed with the most appropriate treatment provider to meet their needs. Funds are sometimes blended with funds from other agencies to fill treatment gaps. Funds may be used to evaluate services and training.	7,036.81	1, 2, 3, 4, 5, 6, 7, 8

EXHIBIT C - 19 IKA 109852

Second (2nd) Judicial District

1406	EHM	Electronic Home Monitoring services are used in this district when the court orders "EHM Discretionary" or "EHM Mandatory". Electronic Home Monitoring is also used for client's who score Level 4 on the JDSAG at screening.	40,000.00		
1500	Restorative Services		15,000.00		
1501	Tutoring	Senate Bill 94 contracts with Varsity Tutors to provide tutoring for pre-adjudicated/adjudicated, court involved truant youth, or municipal court involved youth. The tutoring covers all grade levels, GED Test Prep, SAT and ACT Test Prep, etc. They can also meet with youth to develop individualized study plans. Youth can receive instant help online while waiting for their tutor to be assigned. All of the tutors are background checked and qualified tutors. If the tutor is not a good fit for the kid, they simply let you know and another tutor can be designated. They also provide group tutoring.	15,000.00		1, 2, 3, 4, 5, 6, 7, 8
GRAND TOTAL			158,173.58		

MTR Budget - Variable

Code	Category	Description	Contractor	FTE	EBP
1100	Treatment Services		2,109.00		
M1199	COLA	Flexible spending upon the written authorization of the Senate Bill Coordinator.	2,109.00		
1200	Direct Support		3,301.44		
M1202	Incentives for Groups	Provided to youth and families. Provided for compliance, need, and rapport building.	3,301.44		2, 5

EXHIBIT C - 19 IKAA 109852

Second (2nd) Judicial District

1400	Supervision	25,000.00	
M1402	<p data-bbox="224 235 480 264">Drug Testing Services</p> <p data-bbox="581 235 958 344">Urinalysis testing conducted by GEO Reentry Services includes the following:</p> <p data-bbox="581 390 948 457">Monitored Urinalysis - \$13 per event</p> <p data-bbox="581 466 909 495">Breathalyzer - \$4 per event</p> <p data-bbox="581 504 958 571">Medication Monitoring - \$3 per event</p> <p data-bbox="581 621 974 919">All of the drug screens are monitored by the same gender employee; the team is incentivized for catching participants tampering with their samples. Geo Reentry has the lowest error rate for Norchem in the state of Colorado.</p> <p data-bbox="581 970 967 1113">SB94/SB215 staff are able to see the results of the urinalysis tests using the Norchem Sentry System.</p>	25,000.00	1, 7
1500	Restorative Services	25,000.00	

EXHIBIT C - 19 ICAA 109852

Second (2nd) Judicial District

M1501	Tutoring Services	Senate Bill 94 contracts with Varsity Tutors to provide tutoring for pre-adjudicated/adjudicated, court involved truant youth, or municipal court involved youth. The tutoring covers all grade levels, GED Test Prep, SAT and ACT Test Prep, etc. They can also meet with youth to develop individualized study plans. Youth can receive instant help online while waiting for their tutor to be assigned. All of the tutors are background checked and qualified tutors. If the tutor is not a good fit for the kid, they simply let you know and another tutor can be designated. They also provide group tutoring.	25,000.00	1, 2, 3, 4, 5, 6, 7, 8
GRAND TOTAL- MTR			55,410.44	
Total Variable Budget			213,584.02	

Exhibit D
HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is a part of the Contract dated 07/01/2018 between the Department of Department of Human Services, Division of Youth Services and, City and County of Denver contract number 19-IKAA-109852. For purposes of this Addendum, the State is referred to as “Covered Entity” or “CE” and the Contractor is referred to as “Associate”. Unless the context clearly requires a distinction between the Contract document and this Addendum, all references herein to “the Contract” or “this Contract” include this Addendum.

RECITALS

- A. CE wishes to disclose certain information to Associate pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. CE and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to this Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d – 1320d-8 (“HIPAA”) as amended by the American Recovery and Reinvestment Act of 2009 (“ARRA”)/HITECH Act (P.L. 111-005), and its implementing regulations promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended.
- C. As part of the HIPAA Rules, the CE is required to enter into a written contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Addendum.

The parties agree as follows:

1. Definitions.

a. Except as otherwise defined herein, capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Rules at 45 C.F.R. Parts 160, 162 and 164, as amended. In the event of any conflict between the mandatory provisions of the HIPAA Rules and the provisions of this Contract, the HIPAA Rules shall control. Where the provisions of this Contract differ from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Contract shall control.

b. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.501.

c. “Protected Information” shall mean PHI provided by CE to Associate or created received, maintained or transmitted by Associate on CE’s behalf. To the extent Associate is a covered entity under HIPAA and creates or obtains its own PHI for treatment, payment and health care operations, Protected Information under this Contract does not include any PHI created or obtained by Associate as a covered entity and Associate shall follow its own policies and procedures for accounting, access and amendment of Associate’s PHI.

d. “Subcontractor” shall mean a third party to whom Associate delegates a function, activity, or service that involves CE’s Protected Information, in order to carry out the responsibilities of this Agreement.

2. Obligations of Associate.

a. Permitted Uses. Associate shall not use Protected Information except for the purpose of performing Associate’s obligations under this Contract and as permitted under this Addendum. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the HIPAA Rules if so used by CE, except that Associate may use Protected Information: (i) for the proper management and administration of Associate; (ii) to carry out the legal responsibilities of Associate; or (iii) for Data Aggregation purposes for the Health Care Operations of CE. Additional provisions, if any, governing permitted uses of Protected Information are set forth in Attachment A to this Addendum. Associate accepts full responsibility for any penalties incurred as a result of Associate’s breach of the HIPAA Rules.

b. Permitted Disclosures. Associate shall not disclose Protected Information in any manner that would constitute a violation of the HIPAA Rules if disclosed by CE, except that Associate may disclose Protected Information: (i) in a manner permitted pursuant to this Contract; (ii) for the proper management and administration of Associate; (iii) as required by law; (iv) for Data Aggregation purposes for the Health Care Operations of CE; or (v) to report violations of law to appropriate federal or state authorities, consistent with 45 C.F.R. Section 164.502(j)(1). To the extent that Associate discloses Protected Information to a third party Subcontractor, Associate must obtain, prior to making any such disclosure: (i) reasonable assurances through execution of a written agreement with such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and that such third party will notify Associate within two (2) business days of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach. Additional provisions, if any, governing permitted disclosures of Protected Information are set forth in Attachment A.

c. Appropriate Safeguards. Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Contract. Associate shall comply with the requirements of the HIPAA Security Rule at 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316. Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate’s operations and the nature and scope of its activities. Associate shall review, modify, and update documentation of, its safeguards as needed to ensure continued provision of reasonable and appropriate protection of Protected Information.

d. Reporting of Improper Use or Disclosure. Associate shall report to CE in writing any use or disclosure of Protected Information other than as provided for by this Contract within five (5) business days of becoming aware of such use or disclosure.

e. Associate's Agents. If Associate uses one or more Subcontractors or agents to provide services under the Contract, and such Subcontractors or agents receive or have access to Protected Information, each Subcontractor or agent shall sign an agreement with Associate containing the same provisions as this Addendum and further identifying CE as a third party beneficiary with rights of enforcement and indemnification from such Subcontractors or agents in the event of any violation of such Subcontractor or agent agreement. The Agreement between the Associate and Subcontractor or agent shall ensure that the Subcontractor or agent agrees to at least the same restrictions and conditions that apply to Associate with respect to such Protected Information. Associate shall implement and maintain sanctions against agents and Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. Access to Protected Information. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate shall make Protected Information maintained by Associate or its agents or Subcontractors in such Designated Record Sets available to CE for inspection and copying within ten (10) business days of a request by CE to enable CE to fulfill its obligations to permit individual access to PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.524. If such Protected Information is maintained by Associate in an electronic form or format, Associate must make such Protected Information available to CE in a mutually agreed upon electronic form or format.

g. Amendment of PHI. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate or its agents or Subcontractors shall make such Protected Information available to CE for amendment within ten (10) business days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, and shall incorporate any such amendment to enable CE to fulfill its obligations with respect to requests by individuals to amend their PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or Subcontractors, Associate must notify CE in writing within five (5) business days of receipt of the request. Any denial of amendment of Protected Information maintained by Associate or its agents or Subcontractors shall be the responsibility of CE.

h. Accounting Rights. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate and its agents or Subcontractors shall make available to CE within ten (10) business days of notice by CE, the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.528. In the event that the request for an accounting is delivered directly to Associate or its agents or Subcontractors, Associate shall within five (5) business days of the receipt of the request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. Associate shall not disclose any Protected Information except as set forth in Section 2(b) of this Addendum.

i. Governmental Access to Records. Associate shall keep records and make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining CE's or Associate's compliance with the HIPAA Rules. Associate shall provide to CE a copy of any Protected Information that Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary when the Secretary is investigating CE. Associate shall cooperate with the Secretary if the Secretary undertakes an investigation or compliance review of Associate's policies, procedures or practices to determine whether Associate is complying with the HIPAA Rules, and permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including Protected Information, that are pertinent to ascertaining compliance.

j. Minimum Necessary. Associate (and its agents or subcontractors) shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure, in accordance with the Minimum Necessary requirements of the HIPAA Rules including, but not limited to 45 C.F.R. Sections 164.502(b) and 164.514(d).

k. Data Ownership. Associate acknowledges that Associate has no ownership rights with respect to the Protected Information.

l. Retention of Protected Information. Except upon termination of the Contract as provided in Section 4(d) of this Addendum, Associate and its Subcontractors or agents shall retain all Protected Information throughout the term of this Contract and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years.

m. Associate's Insurance. Associate shall maintain insurance to cover loss of PHI data and claims based upon alleged violations of privacy rights through improper use or disclosure of PHI. All such policies shall meet or exceed the minimum insurance requirements of the Contract (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status and notice of cancellation).

n. Notice of Privacy Practices. Associate shall be responsible for reviewing CE's Notice of Privacy Practices, available on CE's external website, to determine any requirements applicable to Associate per this Contract.

o. Notification of Breach. During the term of this Contract, Associate shall notify CE within two (2) business days of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall not initiate notification to affected individuals per the HIPAA Rules without prior notification and approval of CE. Information provided to CE shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during the breach. Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

p. Audits, Inspection and Enforcement. Within ten (10) business days of a written request by CE, Associate and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that: (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection; and (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract.

q. Safeguards During Transmission. Associate shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

r. Restrictions and Confidential Communications. Within ten (10) business days of notice by CE of a restriction upon uses or disclosures or request for confidential communications pursuant to 45 C.F.R. Section 164.522, Associate will restrict the use or disclosure of an individual's Protected Information. Associate will not respond directly to an individual's requests to restrict the use or disclosure of Protected Information or to send all communication of Protected Information to an alternate address. Associate will refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to Associate.

3. Obligations of CE.

a. Safeguards During Transmission. CE shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

b. Notice of Changes. CE maintains a copy of its Notice of Privacy Practices on its website. CE shall provide Associate with any changes in, or revocation of, permission to use or disclose Protected Information, to the extent that it may affect Associate's permitted or required uses or disclosures. To the extent that it may affect Associate's permitted use or disclosure of PHI, CE shall notify Associate of any restriction on the use or disclosure of Protected Information that CE has agreed to in accordance with 45 C.F.R. Section 164.522.

4. Termination.

a. Material Breach. In addition to any other provisions in the Contract regarding breach, a breach by Associate of any provision of this Addendum, as determined by CE, shall constitute a material breach of this Contract and shall provide grounds for immediate termination of this Contract by CE pursuant to the provisions of the Contract covering termination for cause, if any. If the Contract contains no express provisions regarding termination for cause, the following terms and conditions shall apply:

(1) Default. If Associate refuses or fails to timely perform any of the provisions of this Contract, CE may notify Associate in writing of the non-performance, and if not promptly corrected within the time specified, CE may terminate this Contract. Associate shall continue performance of this Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

(2) Associate's Duties. Notwithstanding termination of this Contract, and subject to any directions from CE, Associate shall take timely, reasonable and necessary action to protect and preserve property in the possession of Associate in which CE has an interest.

(3) Compensation. Payment for completed supplies delivered and accepted by CE shall be at the Contract price. In the event of a material breach under paragraph 4a, CE may withhold amounts due Associate as CE deems necessary to protect CE against loss from third party claims of improper use or disclosure and to reimburse CE for the excess costs incurred in procuring similar goods and services elsewhere.

(4) Erroneous Termination for Default. If after such termination it is determined, for any reason, that Associate was not in default, or that Associate's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if this Contract had been terminated for convenience, as described in this Contract.

b. Reasonable Steps to Cure Breach. If CE knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate this Contract pursuant to Section 4(a), then CE shall take reasonable steps to cure such breach or end such violation.. If CE's efforts to cure such breach or end such violation are unsuccessful, CE shall either (i) terminate the Contract, if feasible or (ii) if termination of this Contract is not feasible, CE shall report Associate's breach or violation to the Secretary of the Department of Health and Human Services. If Associate knows of a pattern of activity or practice of a Subcontractor or agent that constitutes a material breach or violation of the Subcontractor's or agent's obligations under the written agreement between Associate and the Subcontractor or agent, Associate shall take reasonable steps to cure such breach or end such violation, if feasible.

c. Judicial or Administrative Proceedings. Either party may terminate the Contract, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the other party has violated any standard or requirement of the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

d. Effect of Termination.

(1) Except as provided in paragraph (2) of this subsection, upon termination of this Contract, for any reason, Associate shall return or destroy all Protected Information that Associate or its agents or Subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If Associate elects to destroy the PHI, Associate shall certify in writing to CE that such PHI has been destroyed.

(2) If Associate believes that returning or destroying the Protected Information is not feasible, Associate shall promptly provide CE notice of the conditions making return or destruction infeasible. Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c), 2(d) and 2(e) of this Addendum to such Protected Information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Injunctive Relief. CE shall have the right to injunctive and other equitable and legal relief against Associate or any of its Subcontractors or agents in the event of any use or disclosure of Protected Information in violation of this Contract or applicable law.

6. No Waiver of Immunity. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now in effect or hereafter amended.

7. Limitation of Liability. Any limitation of Associate's liability in the Contract shall be inapplicable to the terms and conditions of this Addendum.

8. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Contractor the HIPAA Rules will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.

9. Certification. To the extent that CE determines an examination is necessary in order to comply with CE's legal obligations pursuant to the HIPAA Rules relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which Associate's security safeguards comply with the HIPAA Rules or this Addendum.

10. Amendment.

a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of the HIPAA Rules and other applicable laws relating to the confidentiality, integrity, availability and security of PHI. The parties understand and agree that CE must receive satisfactory written assurance from Associate that Associate will adequately safeguard all Protected Information and that it is Associate's responsibility to receive satisfactory written assurances from Associate's Subcontractors and agents. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of the HIPAA Rules or other applicable laws. CE may terminate this Contract upon thirty (30) days written notice in the event (i) Associate does not promptly enter into negotiations to amend this Contract when requested by CE pursuant to this Section, or (ii) Associate does not enter into an amendment to this Contract providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA Rules.

b. Amendment of Attachment A. Attachment A may be modified or amended by mutual agreement of the parties in writing from time to time without formal amendment of this Addendum.

11. Assistance in Litigation or Administrative Proceedings. Associate shall make itself, and any Subcontractors, employees or agents assisting Associate in the performance of its obligations under the Contract, available to CE, at no cost to CE up to a maximum of 30 hours, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of the HIPAA Rules or other laws relating to security and privacy or PHI, except where Associate or its Subcontractor, employee or agent is a named adverse party.

12. No Third Party Beneficiaries. Nothing express or implied in this Contract is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

13. Interpretation and Order of Precedence. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. Together, the Contract and this Addendum shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties agree that any ambiguity in this Contract shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. This Contract supercedes and replaces any previous separately executed HIPAA addendum between the parties.

14. Survival of Certain Contract Terms. Notwithstanding anything herein to the contrary, Associate's obligations under Section 4(d) ("Effect of Termination") and Section 12 ("No Third Party Beneficiaries") shall survive termination of this Contract and shall be enforceable by CE as provided herein in the event of such failure to perform or comply by the Associate. This Addendum shall remain in effect during the term of the Contract including any extensions.

15. Representatives and Notice.

a. Representatives. For the purpose of the Contract, the individuals identified elsewhere in this Contract shall be the representatives of the respective parties. If no representatives are identified in the Contract, the individuals listed below are hereby designated as the parties' respective representatives for purposes of this Contract. Either party may from time to time designate in writing new or substitute representatives.

b. Notices. All required notices shall be in writing and shall be hand delivered or given by certified or registered mail to the representatives at the addresses set forth below.

State/Covered Entity Representative:

Name: Maurice Williams
Title: Central Region Director
Department and Division: CDHS, Division of Youth Services
Address: 4120 South Julian Way
Denver, CO 80236

Contractor/Business Associate Representative:

Name: City and County of Denver
Title: Michael B. Hancock, Mayor
Address: 303 West Colfax Ave
Dept. 1000
Denver, CO 80204

ATTACHMENT A

This Attachment sets forth additional terms to the HIPAA Business Associate Addendum, which is part of the Contract dated 07/01/2018, between the Colorado Department of Human Services, Division of Youth Services and City and County of Denver, contract number 19-IKAA-109852 ("Contract") and is effective as of 07/01/2018 (the "Attachment Effective Date"). This Attachment may be amended from time to time as provided in Section 10(b) of the Addendum.

1. Additional Permitted Uses. In addition to those purposes set forth in Section 2(a) of the Addendum, Associate may use Protected Information as follows: _____

None except as otherwise directed in writing by the State.

2. Additional Permitted Disclosures. In addition to those purposes set forth in Section 2(b) of the Addendum, Associate may disclose Protected Information as follows:

None except as otherwise directed in writing by the State.

3. Subcontractor(s). The parties acknowledge that the following subcontractors or agents of Associate shall receive Protected Information in the course of assisting Associate in the performance of its obligations under this Contract:

None except as otherwise directed in writing by the State.

4. Receipt. Associate's receipt of Protected Information pursuant to this Contract shall be deemed to occur as follows, and Associate's obligations under the Addendum shall commence with respect to such PHI upon such receipt: _____

Effective 07/01/2018

5. Additional Restrictions on Use of Data. CE is a Business Associate of certain other Covered Entities and, pursuant to such obligations of CE, Associate shall comply with the following restrictions on the use and disclosure of Protected Information: _____
As may be directed in writing by the State of Colorado.

6. Additional Terms. *[This section may include specifications for disclosure format, method of transmission, use of an intermediary, use of digital signatures or PKI, authentication, additional security of privacy specifications, de-identification or re-identification of data and other additional terms.]*

No additional terms noted.