

## **AGREEMENT**

**THIS AGREEMENT** (hereinafter called "Agreement") made by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado, (referred to as "CITY"), to be administered by the Department of Safety, Division of Community Corrections in consultation with the **DENVER COMMUNITY CORRECTIONS BOARD** (hereinafter referred to as the "BOARD"), and **RRK ENTERPRISES, INC., d/b/a/ Independence House, Inc.**, a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, having its principal office at 4101 Pecos Street, Denver, Colorado 80211 (referred to as "CONTRACTOR"),

### **WITNESSETH:**

**WHEREAS**, the City is desirous of securing certain services from the Contractor pursuant to the fiscal year 2011/2012 contract between the City and the Colorado Department of Public Safety, Division of Criminal Justice, and fiscal year 2011/2012 contracts between the City and the Colorado Department of Corrections, for the purpose of administering and implementing an effective community corrections program, made pursuant to the provisions of C.R.S. Section 17-27-101 et. seq., as amended; and

**WHEREAS**, the Contractor is well qualified and skilled in providing such expert and professional treatment services, and is ready, willing and able to undertake and perform such services for the City; and,

**WHEREAS**, the Contractor warrants that it has approved facility(ies) and an approved program for the delivery of community correctional services to clients of the City.

**NOW THEREFORE**, for and in consideration of the premises, and the mutual covenants herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto agree as follows:

#### **I. SERVICES TO BE PROVIDED:**

The Contractor shall, in a lawful, satisfactory and proper manner, and in accordance with the written policies, procedures and requirements as may from time to time be prescribed by the Board, provide services and comply with requirements hereunder:

- A.** The proposal submitted to the City for the delivery of community correctional services to Clients of the City, a copy of which proposal submitted by the Contractor is on file in the City Clerk Office, and incorporated by reference herein.
- B.** The following terms, provisions, rules and procedures:
  - 1. Meet, maintain and comply with all applicable rules and regulations, policies, procedures, standards and guidelines as are adopted by the Denver

Department of Safety and/or the Denver Community Corrections Board, including the Colorado Community Corrections Standards.

2. Pursuant to the rules, policies, procedures, standards and guidelines adopted by the said Department and/or Board, review clients referred by the Second Judicial District Court Judges or the Colorado Department of Corrections, as appropriate, and accept or reject said Clients for the delivery of community correctional services at a time mutually agreeable to the parties, and at such a place as may be designated by the said Department and Board.
3. Maintain individual files for each Client participating in the Contractor's program as required by DOC/SJD. The individual files shall be maintained in a secure area, in a locked file cabinet or safe. Such files and criminal history records shall be maintained and disseminated pursuant to Sections 24-72-201 through 205, CRS, and Sections 24-72-301 through 308, CRS; and in compliance with Title 28 of the Code of Federal Regulations.
4. Provide such reports as are, or may be required by the City during the period of this Agreement.
5. Make its files available for review and inspection by the City or the Division of Criminal Justice, to assure that the Contractor is providing the services required by this Agreement.
6. Refrain from terminating any Client's participation in the Contractor's program without notifying the supervising probation officer or parole agent and making appropriate arrangements for transportation.
7. Provide to the Denver District Court Probation Department or the Colorado Department of Corrections, as appropriate, notification of any unauthorized Client absence from the residential facility, place of employment or schooling or scheduled location away from Contractor control.

Upon the discovery of the unauthorized absence, the Contractor will notify the supervising probation officer or parole agent within four (4) hours after a Client becomes absent from the program. Within three (3) days after the above notification, the Contractor will provide a subsequent written notification to the Denver District Court Probation Department or the Colorado Department of Corrections, as appropriate, about the occurrence of the unauthorized Client absence which will include Client name, name of Contractor personnel observing the absence, the time the absence was discovered and the subsequent status of the Client. The Contractor will be compensated at the full rate for the day on which the Client escapes.

8. Submit vouchers to the City for services provided on such forms and in

such manner as the City may require.

9. Obtain prior written approval from the City before providing any additional services or evaluations not included within this Agreement.
10. Allow the City to inspect the facilities and services provided by the Contractor to observe the conditions under which the Clients are housed and treated.
11. Provide documentation of each Client's physical presence daily during such Client's sleeping hours. Such documentation shall provide Client name, date and time of physical observation attempt, signature of Contractor personnel providing the physical verification, and the designation of Client's status.
12. Provide for emergency medical services for all Clients in the program and immediately notify the supervising probation officer or parole agent if an emergency has arisen.
13. Provide documentation of each Client's physical presence at place of employment, education/training site, or other locations of Client activity away from residential facility (e.g., medical appointments, therapy session, etc.) twice monthly.

Such documentation will provide Client name, date and time of personal contact with the Client, signature of Contractor personnel initiating the contact, and the designation of Client status.

14. Inform the City of action taken on all initial referrals.
15. Provide information upon request of the supervising probation officer or parole agent regarding the activities and adjustment of individual referrals.
16. Collect, maintain and make available to the City ongoing data regarding Clients' employment, alcohol abuse, drug abuse, psychological problems and treatment, vocational or academic education needs and services, re-arrest or other criminal activity and restitution, pursuant to addressing the goals of the program.
17. Pursuant to the goals of the Denver Community Corrections program, develop, in consultation with the City, information for evaluation and measurement of program effectiveness.
18. Insure that authorized Client leaves or absences from project facilities over seventy-two (72) hours will only occur after notification and approval of

the supervising probation officer or Colorado Department of Corrections agent.

19. Verify and document by Contractor personnel the location and Client presence at destination areas for Clients on leave or furlough from Contractor supervision, identifying time, date and project person making the verification.
20. Document in writing all court ordered actions (e.g., restitution) treatments or services provided within the Contractor's service delivery capability or through Contractor referral services, identifying Client attendance or compliance, the time and date of the action and the name of the witnessing Contractor person.
21. Provide a written report about Client progress to the District Court Probation Department or the Colorado Department of Corrections personnel, as appropriate, two (2) weeks prior to the scheduled termination of a Client. This report will be a summary of the Client's community corrections experience and will include such information as deemed necessary by the Client placing agency. In the event of an unscheduled termination, the Client progress report will be provided within one (1) week after the termination. The progress report shall include:
  - a. Client name;
  - b. Referring judge;
  - c. Period of placement;
  - d. Actual termination date;
  - e. Reason for termination;
  - f. Chronological listing of employment or schooling (training) attended with outcome comments for each entry;
  - g. Chronological listing of rules infractions with action taken on each infraction;
  - h. Summary of income earned, taxes paid, family support, personal subsistence and restitution paid;
  - i. Chronological listing of services or treatment provided, duration of service and outcome comments;

- j. Designation of location of residence after release from Community Corrections.
- 22. Provide access for inspection and allow the agents of the State Department of Corrections, State Judicial Department, State Health Department and the City to inspect with or without notice, the facilities and services provided by the Contractor to determine the conditions under which the Clients are housed and treated.
- 23. Perform periodic and unscheduled chemical tests to determine the use of drugs by Clients in the Contractor's residential facility, if any such facilities are maintained by the Contractor. Records and results of each test shall be included in the Client's case file.
- 24. Notify the supervising probation officer or correctional agent if the Contractor knows a Client has been arrested by or is in custody of federal, state or local police or law enforcement authority. The Contractor will be compensated at the full rate for the day on which the Client is arrested or taken into custody.
- 25. Keep all records of Clients confidential and ensure that they are not subjected to public disclosure to the extent provided by law.
- 26. Provide twenty-four (24) hour-a-day, seven (7) days-a-week awake staff supervision of the Clients assigned to the facility.
- 27. Maintain an accurate fiscal accounting of all Clients assigned to the facility or otherwise participating in the Contractor's community corrections program including, but not limited to: gross earning, net earning, federal, state and local taxes paid, amount of restitution agreed to and paid, savings account, subsistence charged and collected, and any other outstanding financial obligation.
- 28. Charge each Client participating in the program a reasonable daily fee on an ability to pay basis. The maximum charge to a Client shall not exceed the maximum set forth by the Colorado Division of Criminal Justice in its contract with the City and County of Denver, through which funds for the Agreement herein are authorized. The Contractor shall submit a written quarterly report to the Division of Criminal Justice on the amount charged and collected from the Clients assigned to the Contractor's program. The report shall include the total number of days of services rendered, total number of days the Clients were charged, the pay rate charged the Clients, and the total dollar amount charged and collected from the Clients. The quarterly reports shall be submitted to the State no later than October 15, 2010, January 15, 2011, April 15, 2011, and July 15, 2011, and shall cover

the quarter prior to the submission of the reports. Any reports required by the referenced Colorado Department of Corrections contracts shall also be submitted by the Contractor.

29. Comply with the requirements of C.R.S. §17-27-101 et. seq., all local health, fire, licensing, building and zoning ordinances and regulations, and the Colorado Community Corrections Standards.
30. Since this Agreement consists of personal services, the rights and duties arising hereunder may not be assigned, delegated, or subcontracted out without the consent of the City. The Contractor shall be bound by the funds provided to the City for the fiscal year governing this Agreement, incurred in the operation of the program.

## **II. TIME OF PERFORMANCE:**

The term of this Agreement is understood and agreed to commence July 1, 2011 and run through June 30, 2012.

## **III. CONDITIONS:**

The Contractor shall be subject to and meet the terms and conditions stated and incorporated in this Agreement.

- A. **Establishment and Maintenance of Records:** Records and reports, whether fiscal accounting or expositive, shall be maintained in accordance with the requirements prescribed by the Department in consultation with the Board and required by the City; such records shall be maintained for a period of seven (7) years after receipt of final payment under this Agreement.
- B. **Documentation of Cost:** All costs hereunder shall be evidenced by vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- C. **Reports and Information:** At such times and in such forms as the City may require in its sole discretion, there shall be furnished to the City such statements, records, data and information as requested as pertaining to matters covered by this Agreement.
- D. **Audits and Inspections:** All fiscal and expositive records and reports associated with this Agreement shall be subject to audit review by the Auditor of the City. Contractor agrees that any duly authorized representative of the City, including the City Auditor or his representative, shall, until the expiration of three (3) years after

the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor, involving transactions related to this Agreement. Upon request of the City the Contractor will initiate an independent fiscal audit of the services provided for under this Agreement. The official report of said audit shall be delivered to the City within ninety (90) days of its initiation. Costs for such audits requested by the City will be provided totally by the Contractor.

- E. **No Discrimination In Employment:** In connection with the performance of work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.
  
- F. **Unearned Payments:** Unearned payments under this Agreement may be suspended or terminated upon refusal by the Contractor to accept the terms, conditions and covenants of this Agreement and any additional conditions that may be imposed by the State or the City through laws, ordinances regulations and/or by-laws enacted by the State or City.
  
- G. **Taxes, Permits, and Licenses:** The Contractor agrees to pay promptly all taxes, excises, licenses fees and permit fees of whatever nature applicable to its operations, and to take out and keep current all required licenses, municipal, state or federal, required for the conduct of any of its business activities, and further agrees not to permit any of said taxes, excises or license fees to become delinquent nor to allow any of such licenses or permits to lapse or expire or be suspended, revoked or cancelled. The Contractor further agrees to furnish the City, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment by Contractor of all required licenses and all taxes. The Contractor further agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations, and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed which will in any way impair the rights of the City under this Agreement.
  
- H. **No Authority to Bind City on Contracts:** The Contractor has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City, as required by Charter and ordinance.
  
- I. **Venue, Governing Law:** Notwithstanding any other term, condition, or covenant hereof, each and every term, condition, and covenant herein is subject to and shall be construed in accordance with the provisions of applicable federal law, Colorado law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such law,

together with the Charter, Revised Municipal Code, regulations and Executive Orders of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

- J. Use, Possession or Sale of Alcohol or Drugs:** The Contractor, its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.
- K. Coordination and Liaison:** The Contractor agrees that during the term of this Agreement it shall fully coordinate all services hereunder with the City, including the Director of Community Corrections or designee (“Director”) or as otherwise directed by the City. The Contractor understands that the Director is the City’s representative under this Agreement through whom contractual services performed under this Agreement shall be coordinated. All records, data, specifications and documentation prepared by the Contractor under this Agreement, when delivered to and accepted by the Director shall become the property of the City. The Contractor also agrees to allow the City to review any of the procedures used by it in performing the services hereunder and to make available for inspection notes and other documents used in the preparation of any of the services required hereunder, in order to coordinate the performance of services by the Contractor in accordance with the terms of this Agreement.
- L. Payment:** The City agrees to pay the Contractor and the Contractor agrees to accept as full and total compensation for the services performed hereunder, an amount of money which shall not exceed **Two Million Seven Hundred Sixteen Thousand Eight Hundred Eighty Nine Dollars and Forty Centys(\$2,716,889.40)** from those monies appropriated for the purposes of this Agreement by the State of Colorado, pursuant to, as appropriate, the State Division of Criminal Justice 2011/2012 Community Corrections Contract with the City and/or the State Department of Corrections 2011/2012 Community Corrections and Adult Parole Contracts with the City, and paid thereto into the Treasury of the City. The Contractor shall request payment of the monies available hereunder on such basis and in such amounts as are not inconsistent with the requirements of the City and the State. The Contractor understands and agrees that compensation under this Agreement, to the extent funded by the State Department of Corrections 2011/2012 Community Corrections and Adult Parole Contract referenced above, incorporates a “menu” basis subject to performance by the Contractor of enumerated tasks for specified fees. It is expressly understood and agreed that the obligation of the City for all or any part of payments provided for herein, whether direct or contingent, shall only extend to the said monies appropriated by the State pursuant to such



contracts, actually paid to the City, appropriated for this Agreement by the Denver City Council and encumbered for the purpose of the Agreement. It is expressly understood that the City has no obligation to provide, directly or indirectly, community corrections services in excess of those provided through such State funding. The parties understand that the City reserves the right not to accept supplemental funding from the State pursuant to the said 2011/2012 State contracts and that the amount payable from the State to the City may be adjusted up or down by Allocation Letter or Funding Letter pursuant to **Exhibit A** hereof. The Contractor therefore recognizes and agrees that the amount stated in this Subsection L. shall constitute the maximum amount payable to the Contractor under this Agreement, unless an amendment to this Agreement is duly executed increasing such amount.

1. The City agrees to compensate the Contractor for the delivery of residential community corrections services in accordance with the following reimbursement terms:
  - a. At a rate per Client day of residential services for each day of services delivered during a calendar month, which has been approved by the Colorado State Legislature. (A Client day of residential services shall be interpreted to be a twenty-four (24) hour calendar day wherein a Client placed in the Contractor's program is supervised, housed and maintained in accordance with the program and services described in the proposal to this Agreement, on file in the City Clerk and Recorder's Office); and
  - b. At a rate for each unit of nonresidential service delivered to a lawfully assigned Client not residing in the residential facility of the Contractor which has been approved by the Colorado State Legislature.
2. The Contractor's attention is drawn to Section A 6 of the appropriate funding contract under **Exhibit A** hereto, which provides that up to four percent (4%) of total residential transition, residential diversion, and diversion non-residential allocation funds may be utilized by the City for administrative purposes.
3. During the period of this Agreement the "Contractor" will be reimbursed on a monthly basis upon the receipt of a proper billing.
4. The Contractor will not be paid for the first day a Client participated in the program, but shall be compensated the last day of the Client's participation. The City agrees to withhold funds when the City determines that the program or facilities of the Contractor are not in compliance with this Agreement. Over-payments made by the City in the event of

non-compliance, shall be immediately returned to the City by the Contractor, upon written demand.

5. The City will only pay for the following leaves of absence, as authorized and approved by The Colorado State Department of Corrections (DOC) or the State Judicial Department (SJD):
  - a. "On-grounds leave" based on a pass earned by the Client for a short period of time, ranging from one (1) hour up to a weekend consisting of forty-eight (48) hours. An additional twenty-four (24) hours and/or travel time for out-of-town Clients may be approved by the appropriate probation or parole officer.
  - b. "Off-grounds leave" for the purpose of which is to conduct a hearing or assessment regarding the continuation of the Client in community corrections, for a maximum allowable period of three (3) days.
  - c. "Emergency leave" caused by and limited to a serious life-threatening incident in the Client's immediate family, subject to a maximum period of seven (7) days, to be reimbursed at fifty percent (50%) of the regular per diem rate.
  - d. "Absence Due to Arrest" notify DOC/SJD immediately if they know a Client has been arrested and/or is in the custody of federal, state, or local authorities. If the Contractor has requested and received prior written permission from DOC/SJD, the State shall compensate the Contractor at full rate for the day on which the Client is arrested, and at fifty percent (50%) of the regular per diem rate for up to seven (7) days for maintaining the availability of a position during the Client's absence.

**M. No Third Party Beneficiaries:** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Contractor, and nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other or third person or entity on such Agreement. It is the express intention of the City and the Contractor that any person or entity, other than the City or the Contractor, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**N. Status of The Contractor:** It is understood and agreed by and between the parties hereto that the status of the Contractor shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in section 9.1.1. E. (x) of the Charter of the

City, and it is not intended, nor shall it be construed, that the Contractor is a department of the City, or that any employee, officer, or subcontractor of the Contractor is an employee or officer of the City under Chapter 18 of the Denver Revised Municipal Code for the purposes of workers' compensation, unemployment compensation, or for any purpose whatsoever.

**O. Conflict Of Interest:**

1. The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Contractor further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter Sections 1.2.9 and 1.2.12.

2. The Contractor agrees that it will not engage in any transaction, activity or conduct which would result in a conflict of interest under this Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, the interests of any principal of the Contractor or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest, which shall be deemed a material breach or default of this Agreement and may terminate this Agreement in the event such a conflict exists after it has given the Contractor written notice which describes the conflict. The Contractor shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

**P. Insurance:**

1. **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk

Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior.” Additionally, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

2. **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage. Contractor certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the Certificate. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.
3. **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Contractor and subcontractor’s insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
4. **Waiver of Subrogation:** For all coverages, Contractor’s insurer shall waive subrogation rights against the City.
5. **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers’ Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages.

Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

6. **Workers' Compensation/Employer's Liability Insurance:**

Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

7. **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

8. **Business Automobile Liability:** Contractor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

9. **Additional Provisions:**

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs in excess of policy limits;
- (iii) A severability of interests, separation of insureds or cross liability provision; and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:

- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(c) Contractor shall advise the City in the event any general aggregate

or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**Q. Colorado Governmental Immunity Act:** The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

**R. Indemnity:**

1. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Consultant or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

2. Consultant’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Consultant’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

3. Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

4. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own

expense, any additional insurance that it deems necessary for the City's protection.

5. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

S. **When Rights and Remedies Not Waived:** In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of term, condition, or covenant or any default which may then exist on the part of the Contractor, and the making of any such payment when any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more terms, conditions, or covenants, of the Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

T. **Proprietary or Confidential Information; Open Records:**

1. **City Information:** The Contractor shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information concerning any matters which are not subject to public disclosure, including without limitation police records or medical records of or pertaining to Clients receiving services under this Agreement and other privileged or confidential information. The Contractor shall comply with all state or federal laws and requirements pertaining to medical or health records, including but not limited to HIPAA. The Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Contractor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Contractor agrees that all Proprietary Data or confidential information provided or otherwise disclosed by the City to the Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. The Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Contractor would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to the Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

2. **Use of Proprietary Data or Confidential Information:** Except as expressly provided by the terms of this Agreement, the Contractor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available the Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement. The Contractor further acknowledges that by providing this Proprietary Data of confidential information, the City is not granting to the Contractor any right or license to use such data except as provided in this Agreement. The Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the Proprietary Data or confidential information without written authorization from the Director.

The Contractor agrees, with respect to the Proprietary Data and confidential information, that: (1) the Contractor shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Director; (2) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (3) the Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

3. **Employees and Subcontractors:** The Contractor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. The Contractor shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

4. **Disclaimer:** Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an “as is” basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. The Contractor is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute



**program, claims by third parties, or for similar costs. If discrepancies are found, the Contractor agrees to contact the City immediately.**

5. **Contractor's Information:** The parties understand that all the material provided or produced under this Agreement by the Contractor may be subject to the Colorado Open Records Act and/or the Colorado Criminal Justice Records Act, and that in the event of a request to the City for disclosure of such information, the City shall advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of its documents which it reasonably believes is proprietary or confidential under such Act(s). In the event that the Contractor fails to take action with respect to such material by seeking and obtaining a protective court order or other informal resolution with the party seeking the information, the City will disclose all such material in compliance with the said Act(s). In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Contractor's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

U. **No Construction Against Drafting Party:** Each of the parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any party merely because this Agreement or any of its provisions, have been prepared by a particular party.

V. **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 2011/2012 Community Corrections Contract with the City, and the State Department of Corrections 2011/2012 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.

W. **Disputes:** All disputes of whatever nature between the City and Contractor regarding this Agreement, including but not limited to disputes involving breach or default of the Agreement, shall be resolved by administrative hearings pursuant to

the procedure established by Denver Revised Municipal Code §56-106(b) et seq.. For the purposes of that procedure, the City official referring a final determination shall be the City's Director.

- X. **Americans With Disabilities Act; Rehabilitation Act:** The Contractor shall cause all Community Corrections facilities owned and/or leased by it pursuant to this Agreement to be inspected and analyzed by competent knowledgeable inspection personnel and legal representatives for compliance of such facilities with all applicable titles of the Americans With Disabilities Act (ADA) and, as applicable, the Rehabilitation Act.. All operations of the Contractor hereunder shall also be conducted in compliance with the ADA and as applicable, the Rehabilitation Act. The Contractor shall submit documentation as required by the City to demonstrate compliance with these Acts.
- Y. **Immigration Reform Control Act:** The Contractor shall comply with the Immigration Reform Control Act in all hiring practices undertaken pursuant to this Agreement.
- Z. **Survival of Certain Agreement Provisions:** The parties understand and agree that all terms, conditions and covenants of this Agreement, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

**AA. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:**

- 1. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).
- 2. The Contractor certifies that:
  - (a) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
  - (b) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
- 3. The Contractor also agrees and represents that:
  - (a) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
  - (b) It shall not enter into a contract with a sub-consultant or

subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

- (c) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (d) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (e) If it obtains actual knowledge that a sub-consultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such sub-consultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such sub-consultant or subcontractor if within three (3) days after such notice the sub-consultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the sub-consultant or subcontractor provides information to establish that the sub-consultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- (f) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

4. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

**BB. ASSIGNMENT; SUBCONTRACTING:** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the City's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The City has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City;

and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

**CC. SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

**DD. CONFLICT OF INTEREST:**

1. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.
2. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

**IV. TERMINATION OF AGREEMENT:**

The performance of work under the Agreement may be terminated by the City in accordance with this clause in whole or from time to time in part:

- A. The City may terminate this Agreement at any time on ten (10) days' notice if the Contractor's services are not being satisfactorily performed in accordance with this Agreement, if the Contractor is in breach or default of the Agreement, or if the program is cancelled. The City may also by written Notice of Default to Contractor terminate the whole or part of this Agreement in the event Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with the Contractor's business. The City may otherwise terminate the Agreement without cause, for its convenience, upon fifteen (15) days' notice to the Contractor. If the Contractor's services are terminated, it shall be paid only for that portion of terminated services satisfactorily completed in accordance with this Agreement at the end of the period of notice of

such action, subject to Subsection B. below.

- B.** After receipt of a Notice of Termination and except as otherwise directed by the City, the Contractor shall:
1. Stop work under the Agreement on the date and to the extent specified in the Notice of Termination;
  2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of work under the Agreement as is not terminated;
  3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
  4. With the approval or ratification of the City, to the extent it may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of the Agreement;
  5. Complete performance of any such part of the work as shall not have been terminated by the Notice of Termination; and
  6. Take such actions as may be necessary or as the City may direct, for the protection and preservation of the property related to the Agreement which is in the possession of the Contractor and in which the City has an interest.

**V. ADDRESS OF PARTIES:**

Address of the parties for the purpose of giving any required notices or reports are as follows:

- |   |   |
|---|---|
| <p><b>A.</b> Denver Department of Safety<br/>Community Corrections Division<br/>303 West Colfax Avenue<br/>Department 1701<br/>Denver, Colorado 80204</p> | <p>Greg Mauro, Director<br/>Phone: 720-913-8250</p>               |
| <p><b>B.</b> RRK Enterprises, Inc.<br/>d/b/a Independence House, Inc.<br/>4101 Pecos Street<br/>Denver , CO 80211</p>                                     | <p>Mannie Rodriquez, Exec. Director<br/>Phone: (303) 455-7667</p> |

**VI. Agreement As Complete Integration-Amendments:**

This Agreement is intended as the complete integration of all understandings between the parties as to the subject matter of this Agreement. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. No oral representation by any officer or employee of the City at variance with terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect bind the City. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

**VII. Legal Authority:**

- A. The Contractor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.
- B. The person or persons signing and executing this Agreement on behalf of the Contractor, do hereby warrant and guarantee that he/she or they have been fully authorized by the Contractor to execute this Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions herein set forth.
- C. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Contractor or the person signing the Agreement to enter into this Agreement. The City shall not be obligated to pay Contractor for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this Article.

**VIII. Counterparts Of This Agreement:**

This Agreement shall be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

(BALANCE OF PAGE BLANK)

## **EXHIBIT A**



<b>Department or Agency Name</b> Public Safety
<b>Department or Agency Number</b> RAA
<b>Contract Number</b>

**CONTRACT**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_09\_, by and between the State of Colorado, Department of Public Safety, for the use and benefit of the **Division of Criminal Justice, 700 Kipling Street, Suite 1000, Denver, Colorado 80215**, hereinafter referred to as the State, and **City and County of Denver, a municipal corporation organized pursuant to the Constitution of the State of Colorado, to be administered by the Department of Safety/Community Corrections Division, a City Agency, hereinafter referred to as Community Corrections, through the Denver Community Corrections Board, hereinafter referred to as the Board, 200 W. 14th Avenue, Suite 302, Denver, CO 80204**, hereinafter referred to as the Contractor;

**RECITALS**

1. Authority exists in the law and funds for the current fiscal year have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering the subsequent payment of this contract; and
2. Required approval, clearance and coordination has been accomplished from and with appropriate agencies; and
3. The Department of Public Safety, Division of Criminal Justice, is authorized by Title 17, Article 27, and Section 18-1.3-301, C.R.S., as amended, to administer and execute all contracts with units of local government, community corrections boards, or nongovernmental agencies for the provision of community corrections facilities and programs as defined pursuant to Title 17, Article 27, and Section 18-1.3-301, C.R.S., as amended.
4. The Contractor is authorized to enter into agreements with the State as a result of the statutory reference, resolution or ordinance attached, marked as *Exhibit "D"* and incorporated herein by reference.
5. Any contract between the State and its local government subdivisions is exempt from the procurement process, pursuant to C.R.S. 24-101-105(1), as amended.

NOW THEREFORE, subject to the terms, conditions, provisions and limitations contained in this contract, the State and the Contractor agree as follows:

**I. STATEMENT OF WORK**

1. Responsibilities of the Contractor:

- A. Approval. The Contractor shall ensure that the community corrections services are provided through programs approved by the local community corrections board in their jurisdiction and operating pursuant to Title 17, Article 27, and Section 18-1.3-301, C.R.S., as amended.
- B. Subcontract.
- 1) The Contractor may subcontract for community corrections services with any private agency or unit of local government for the purpose of rendering services to offenders, provided, however, that any subcontractors shall comply with the terms and provisions of this contract and all applicable sections of Title 17, Article 27, and Section 18-1.3-301, C.R.S., as amended. The Contractor shall include all requirements of this contract in all subcontracts with programs.
  - 2) Copies of all subcontracts shall be provided to the State within ninety (90) days following the beginning of the fiscal year or within ninety (90) days following the addition or replacement of a new subcontractor. No payment shall be authorized unless the appropriate subcontract has been executed and the services specified in the approved subcontract have actually been provided.
  - 3) All subcontractor responsibilities shall be the responsibility of the Contractor if the State is contracting directly with a community corrections program that provides services and supervision for offenders.
  - 4) The Colorado Community Corrections Risk Factor Analysis published pursuant to C.R.S. 17-27-108(2)(b)(II)(B) is attached to this contract as *Exhibit H*, and is incorporated by reference.
  - 5) In each year, the revised Risk Factor Analysis shall be published and transmitted by the State to the Contractor.
  - 6) Except as otherwise provided herein, commencing on July 1, 2011, and on the July 1 of each fiscal year thereafter, the Contractor shall not disburse any funds allocated pursuant to this contract for services rendered by any community corrections program or provider at any location that has been designated as a "Level I" program or provider pursuant to the two most recently revised Risk Factor Analysis publications.
  - 7) The Contractor may still disburse funds pursuant to this contract to a "Level I" program or provider if:
    - (a) the program or provider has been operating at its current location for less than 24 months, or
    - (b) the program or provider has not had at least one full performance audit or at least one follow-up performance audit within the 12 months preceding the publication of the most recently revised Risk Factor Analysis, or
    - (c) the Contractor has the written consent of the State to continue to disburse funds to the "Level I" program or provider.

- 8) Notwithstanding any other provisions of this contract, the Contractor shall withhold the disbursement of funds to any new program or provider situated at the same physical location as a "Level I" program or provider unless and until:
    - a) the State concurs in writing that the new program or provider is under new ownership or management, and
    - b) an initial performance audit of the new program or provider by the State demonstrates that such new program or provider is likely to meet or exceed the performance levels necessary for subsequent Risk Factor Analysis designation as a "Level II," "Level III" or "Level IV" program or provider.
  - 9) Notwithstanding any other provision of this contract, the State may on an emergent basis and after appropriate inquiry designate any program or provider receiving funds pursuant to this contract as ineligible to continue to receive such funds when it is demonstrated that the current operation of the program or provider constitutes an imminent and significant threat to public safety. No such designation shall be made without the written concurrence of the Executive Director of the Department of Corrections, the Executive Director of the Department of Public Safety and the Administrator of the State Judicial Department, or their designees.
    - a) The designation of ineligibility to receive funds shall continue until the State finds that the imminent and significant threat to public safety has been abated and is not likely to recur.
    - b) The designation of ineligibility to receive funds shall not prohibit payment for services already rendered.
- C. Description of Services. The Contractor shall ensure that its subcontractors provide such services as specifically set forth in the annual proposal submitted to the State for the provision of services to 1) offenders referred by the Department of Corrections (DOC), 2) offenders referred by the State Judicial Branch (SJB), 3) offenders referred by the State Board of Parole, or 4) offenders referred by SJB pursuant to Section 19-2-907(1)(b), Section 19-2-908, and Section 19-2-910, C.R.S., as amended.
- D. Standards. The Contractor shall ensure that its subcontractors meet, maintain and comply with all applicable guidelines or standards as provided in Title 17, Article 27, and Section 18-1.3-301, C.R.S., as amended, and the "Colorado Community Corrections Standards", as revised or amended, attached, marked as *Exhibit "E"* and incorporated herein by reference. Non-compliance with Standards may result in reduction of compensation rates as specified in the Allocation Letter, sample form attached, marked as *Exhibit "B"* and incorporated herein by reference; cessation of offender placements in the program; implementation of a competitive bid process, coordinated with the local community corrections board, to consider alternate program providers; cancellation of the contract; or cancellation of the subcontract.
- E. State and Local Regulations. The Contractor shall ensure that its subcontractors comply with all state and local laws, health, safety, fire, building and zoning requirements.

- F. Victim Rights Act. The Contractor shall ensure that its subcontractors comply with Section 24-4.1-302.5, Section 24-4.1-303 and Section 24-4.1-304 C.R.S., as amended, commonly known as the Victim Rights Act and enabling legislation.
- G. Immigration Reform Control Act. The Contractor shall ensure that its subcontractors comply with all federal and state laws, including the Immigration Reform Control Act in all hiring practices.
- H. Americans with Disabilities Act. The Contractor shall ensure that its subcontractors comply with all applicable titles of the Americans with Disabilities Act (Public Law 101.336) and submit documentation as required by the State to demonstrate compliance with this Act.
- I. Client Files. The Contractor shall ensure that its subcontractors maintain individual files for each offender participating in their program as required by DOC/SJB. The individual files shall be maintained in a secure area, in a locked file cabinet or safe. Such files and criminal history records shall be maintained and disseminated pursuant to federal and state regulations.
- J. Reports. The Contractor, and its subcontractors, shall provide timely, prompt, and accurate reports as are or may be required by the State, DOC or SJB during the period of the contract, which include but are not limited to statistical reports, caseload data, required entries into the Community Corrections Information and Billing computer system, Survey Questionnaires and other records documenting the types of services provided and the identity of the individual offenders receiving such services. Computerized termination forms and related offender data must be completed by program staff, as prescribed by the State, for each offender served, and shall be completed in accordance with the requirements of the State.
- K. Fugitive Reporting System. Pursuant to Section 17-27-104(11), C.R.S., the Contractor shall ensure that any probable escape of any offender funded pursuant to this Contract is reported by program staff providing services through this contract in the manner prescribed by the State.
- L. Supervision of Offenders. The Contractor shall ensure that its subcontractors provide 24-hours-a-day, seven-days-a-week staff supervision of the offenders assigned to the residential facility as specified in the "Colorado Community Corrections Standards".
- M. Method of Billing.
- 1) The Contractor shall bill the State for services provided on such forms and in such manner as the State may require.
  - 2) Billing shall be submitted through the Community Corrections Information and Billing system and/or, at the sole discretion of the State, on a Community Corrections Billing form provided to the Contractor by the State for that purpose. The State reserves the right to modify billing procedures.
  - 3) The Contractor shall send the Colorado Community Corrections Month-End Expenditure Form, sample form attached hereto and incorporated by reference as *Exhibit "F"*, within thirty (30) days of the end of each month.

- 4) The Contractor shall report the total billable program costs to the State within five (5) days after the end of the fiscal year. The State may require the Contractor to provide an estimate of final year-end expenditures any time within sixty (60) days prior to the end of the fiscal year.
  - 5) The Contractor agrees to attempt to use funds on an approximately equal quarterly basis, unless authorized by the State. If actual quarterly expenditures are less than the quarterly advance by more than twenty percent (20%), subsequent quarterly payments may be reduced accordingly.
- N. Additional Services. The Contractor shall ensure that its subcontractors obtain prior written approval from the State before providing any additional billable services or evaluations not provided for by the terms and conditions of this contract. If services are billed by the Contractor that exceeds the maximum total payment as described in *Exhibit "B"*, or any subsequent Reallocation Letter substantially equivalent to Exhibit "C", the State is not liable for reimbursement. Should additional funding become available, the State may, at its own option, choose to reimburse beyond the amount specified in *Exhibit "B"*, by means of a Reallocation Letter substantially equivalent to Exhibit "C".
- O. Reimbursement by Client.
- 1) The Contractor shall ensure that its subcontractors know that they may charge each offender participating in a community corrections program the reasonable costs of the services not covered by State payments, pursuant to the annual legislative appropriation. The charges may be, but are not required to be, collected on an ability-to-pay basis. Each offender shall be issued receipts for fees collected.
  - 2) Any charges to offenders in excess of the amounts listed in the legislative appropriation must be approved in advance by the State and the local community corrections board.
- P. Absence Due to Arrest. The Contractor shall ensure that its subcontractors notify DOC/SJB immediately if they know an offender has been arrested and/or is in the custody of federal, state or local authorities. The State shall compensate the Contractor at full rate for the day the offender is arrested, and at fifty percent (50%) of the regular per diem rate for up to seven (7) days for maintaining the availability of a bed during the offender's absence.
- Q. Unauthorized Absence. The Contractor shall ensure that its subcontractors notify DOC/SJB, through the appropriate probation/parole officer, within two (2) hours after an offender is discovered to be absent from an approved location or activity without authorization. The subcontractor shall keep the offender's bed available for a period not to exceed one (1) day during the offender's unauthorized absence if DOC/SJB notifies the subcontractor that it does desire to have the bed kept available. The State shall compensate the Contractor at full rate only on the day the offender escapes.
- R. Insurance.
- 1) The Contractor shall ensure that its subcontractors obtain and maintain in full force and effect at all times during the term of this agreement, insurance in the following kinds of amounts:

- a) Standard Worker's Compensation and Employer Liability as required by State statute, including occupational disease, covering all employees on or off the work site, acting within the course and scope of their employment.
  - b) General, Personal Injury, and Automobile Liability (including bodily injury, personal injury, and property damage) minimum coverage:
    - 1) Combined single limit of \$1,000,000 if written on occurrence basis.
    - 2) Any aggregate limit will not be less than \$1,000,000.
    - 3) Combined single limit of \$1,000,000 for policies written on a claims-made basis. The policy shall include an endorsement, certificate or other written evidence that coverage extends two years beyond the performance period of the contract.
    - 4) If any aggregate limits are reduced below \$1,000,000 because of claims made or paid during the required policy period, the subcontractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.
  - 2) The State of Colorado shall be named as additional insured on all liability policies.
  - 3) The insurance shall include provisions preventing cancellation within sixty (60) days prior notice to the State by certified mail.
  - 4) The subcontractors shall provide a certificate showing adequate insurance coverage to the State on July 1 of each year, whenever insurance coverage changes in any manner and upon request of the State, unless otherwise provided.
  - 5) If the subcontractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., as amended ("Act"), the subcontractor shall at all times during the term of this contract maintain such liability insurance, by commercial policy of self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the State, the subcontractor shall show proof of such insurance.
- S. Access to Medical Services. Policy and procedures of the subcontractor shall specifically prohibit any restriction or constraint of offenders' movements or efforts to attend to their legitimate medical or dental needs. If a medical emergency occurs, the Contractor shall ensure that its subcontractors immediately notify the referring agency. The State shall compensate the Contractor at the full rate of the day an offender is placed in a hospital, and at fifty percent (50%) of the regular per diem rate for up to seven (7) days for holding a bed available during the hospitalization of an offender, unless the referral agency notifies the subcontractor otherwise.
- T. Review and Inspection. The Contractor, and its subcontractors, shall allow the State, DOC, SJB or Health Department employees to inspect, with or without notice, the facilities, fiscal and program files, other records, and services provided to determine compliance with this contract.

- U. Record Retention. The Contractor, and its subcontractors, shall retain all books, records, and other documents of any part pertaining to this agreement for seven (7) years after final payment, and allow any person duly authorized in writing by the State to have full access to and a right to examine and copy any of the above materials during such period.
  - V. Information Provided. The Contractor shall ensure that its subcontractors provide information upon request of the appropriate DOC/SJB officers regarding the activities and adjustment of offenders assigned to their program. The Contractor shall ensure that its subcontractors collect, maintain and make available to DOC/SJB ongoing data regarding employment, alcohol abuse, drug abuse, psychological programs and treatment, vocational or educational needs and service, re-arrest or other criminal activity, and court imposed fines and restitution and that such subcontractors make timely entries of such data into the Community Corrections Information and Billing computer system, as the State may require.
  - W. Financial Audit. The Contractor shall ensure that its subcontractors provide to the State an independent financial audit report(s) which covers the agency's fiscal year(s) relevant to the contract period. Such materials shall be provided to the State every three years within six (6) months of the end of the fiscal year, beginning in 2011, unless a different schedule is established in writing by mutual agreement of the parties. These requirements may be waived, all or in part, by the State in accordance with established standards.
  - X. Notification of Ownership Changes (Governmental Entities Exempt).
    - 1) The Contractor shall ensure that its subcontractors notify the State in writing within thirty (30) days after becoming aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records. The Contractor shall also ensure that its subcontractors notify the State in writing within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred, or are certain to occur, as a result of a change in ownership.
    - 2) The Contractor shall ensure that its subcontractors:
      - a) Maintain current, accurate and complete inventory records of assets and their costs;
      - b) Provide the State or designated representative ready access to the records upon request;
      - c) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the subcontractor's ownership changes; and
      - d) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each subcontractor ownership change.
    - 3) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirements of the State.
2. Responsibilities of the State:
- A. Multi Year Obligations.

- 1) Prior to the beginning of each fiscal year, the State shall send the Contractor an "Allocation Letter", approved by the State Controller or his designee, sample form attached, marked as *Exhibit "B"* and incorporated herein by reference. The Allocation Letter shall include the following conditions:
  - a) Original maximum annual allocations and rates of reimbursement for each category of community corrections funding;
  - b) Applicable fiscal year for the allocation and rates of reimbursement;
  - c) A provision stating that the allocations shall not be valid until approved by the State Controller or his designee.
- 2) Upon proper execution by the State, such Allocation Letter shall become an amendment to this contract.
- 3) The State may allocate more or less funds available on this contract using a Reallocation Letter substantially equivalent to *Exhibit "C"*, sample form attached and incorporated herein by reference, and bearing the approval of the State Controller or his designee. The Reallocation Letter shall not be deemed valid until it has been approved by the State Controller or his designee.

B. Payment for Services.

- 1) The State agrees to advance funds on a quarterly basis to the Contractor in accordance with the schedule in *Exhibit "B"* subject to compliance with the provision of the contract, as may be amended by any subsequent Reallocation Letter substantially equivalent to Exhibit "C".
- 2) During the period of the contract, upon receipt of proper billings from the Contractor as provided in paragraph 1.M. herein, payment shall be offset against advances up to a maximum total payment as specified in *Exhibit "B"*.
- 3) Reimbursement will not be allowed for the first day of an offender's participation in a program, but shall be allowed for the last day of an offender's participation. The day an offender transfers from Residential to Non-Residential status, reimbursement will be made at the residential daily rate, but shall not be made for non-residential expenses. The day an offender transfers from Non-Residential to Residential status, reimbursement will be made for Non-Residential expenses, but shall not be made for the residential daily rate.
- 4) The community corrections board, or the unit of local government that established the board, may use up to four percent (4%) of the total original allocation for residential transition, residential diversion and diversion non-residential services for administrative purposes. The board or unit of local government may opt to perform any or all of the following functions to be eligible to receive the administrative funds:
  - a) Option1: Administer contracts with approved service providers and administer payments to subcontractors – eligible for up to two percent (2%) of the funds;



- b) Option 2: Provide staffing support for local boards to conduct regular business and screening functions; and in coordination with state and local agencies, monitor community corrections programs within the jurisdiction of such board, oversee compliance with state and local standards, monitor program performance based on the State's performance measures, and enforce the implementation of plans to bring providers in compliance with program standards. The community corrections board's oversight of the community corrections program within the board's jurisdiction shall include assessing the number of offenders who have escaped from custody, based on reports prepared by the administrators of community corrections programs, and determining compliance by community corrections programs with the recommendations made in audit reports prepared by the State – eligible for up to two percent (2%) of funds;
  - c) Contractors shall keep financial records documenting the receipt and expenditure of all administrative funds and maintain these records for a period of seven (7) years following the contract period.
  - d) Quarterly reports summarizing each quarter's administrative expenditures within each option category shall be forwarded to the State no more than thirty (30) days following the end of each quarter. The Contractor shall use the Colorado Community Corrections Quarterly Administrative Expenditures Summary form, form attached hereto and incorporated by reference as *Exhibit "G"*
  - e) The Contractor or employees of the Contractor who have responsibility for receipt and/or disbursement of money under this contract shall be bonded or insured to the value of the total allocation in *Exhibit "B"*. Documentation of such bonding or insurance shall be forwarded to the State prior to the disbursement of contract funds.
- 5) The Contractor shall use no more than one percent (1%) of their total residential diversion allocation for condition of probation clients. Reimbursement for any single client in residential diversion community corrections as a condition of probation shall be limited to a maximum of thirty (30) days, unless a written request is presented to and approved by the State.
  - 6) Any transfer of funds by the Contractor between the transition and diversion line items listed in *Exhibit "B"* must be reviewed and approved in writing by the State, except that the Contractor may transfer up to ten percent (10%) of such funding between the transition and diversion line items without the approval of the State.
  - 7) The Contractor may request funds to supplement the allocations of this contract, under circumstances defined by the Office of State Planning and Budgeting. All requests for supplemental funds are subject to review by the executive and legislative branches of the State and are subject to the provisions of the Reallocation Letter.
  - 8) Reimbursement may be allowed for any additional programmatic funding approved by the Legislature.
- C. Payment for Travel. The State shall reimburse the Contractor for travel at the rate allowed by State Fiscal Rules, when such travel is requested by DOC or approved by the State for the purpose of transporting offenders. The Contractor agrees that all travel to DOC correctional facilities shall be coordinated by DOC prior to the Contractor being

reimbursed. The Contractor shall provide the State with monthly travel reports setting forth the date of travel, mileage, destination and offenders transported. Reimbursement for mileage shall be made from the residential transition allocation listed in *Exhibit "B."* Payment shall be made by the trip, not for each individual offender.

- D. Payment for Leave of Absence. The State shall pay for the following leaves of absence at the full per diem rate, when authorized and approved by DOC or SJB:
- 1) "Pass or furlough" based on a privilege to leave the facility to an approved location for up to forty-eight (48) hours.
  - 2) "Off-grounds leave" for the purpose of which is to conduct a hearing or assessment regarding the continuation of the offender in community corrections, for a maximum allowable period of three (3) days.
  - 3) "Emergency leave" caused by and limited to a serious life-threatening incident in the offender's immediate family, subject to a maximum period of seven (7) days, to be reimbursed at fifty percent (50%) of the regular per diem rate.
- E. Noncompliance. The State agrees to allow the Contractor thirty (30) days within which they may correct or justify identified issues, following a notice of non-compliance, unless there is an immediate risk to public safety. If the identified issues are unresolved within the thirty (30) day period, action may be taken under any applicable provisions of this Contract.
- F. Limitation of Payments and Liabilities. The State shall not assume liability for any deficiency that the Contractor, or its subcontractors, may incur in the operation of its program nor for any debts or expenditures incurred by the Contractor, or its subcontractors, for ensuing fiscal years.

## II. GENERAL PROVISIONS

1. Performance Period. The contract shall be effective upon approval by the State Controller or designee, or on July 1, 2009, whichever is later, and extend through June 30, 2014, contingent upon availability of funds.
2. Assignment. The rights and duties arising under this contract shall not be assigned or delegated without the prior written consent of the State.
3. Breach. A breach of this contract shall not be deemed to be a waiver of any subsequent breach or default of the contract.
4. Third-Party Beneficiary. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person, with the exception of community corrections boards authorized to administer local programs; otherwise, it is the express intent of the parties to this contract that any such person or entity receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

5. Governmental Immunity. Notwithstanding any other provision of this contract to the contrary, 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, Section 24-10-101, et. seq. C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of Section 24-10-101, et. seq., C.R.S., as now or hereafter amended and the risk management statutes, Section 24-30-1501, et. seq., C.R.S., as now or hereafter amended.
6. Termination. This contract may be terminated by either party by giving thirty (30) days notice in writing, delivered by certified mail, return receipt requested, to the other party at the above address, or delivered by personal services upon the party.
  - A. If notice is so given, this contract shall terminate on the expiration of the thirty (30) days, and the liability of the parties hereunder for the further performance of the terms of this contract shall thereupon cease, but the parties shall not be relieved of the duty to perform their obligation up to the date of termination.
  - B. Upon receipt of notice of termination for convenience, the Contractor shall incur no further obligations in connection with the contract. The Contractor will be reimbursed for reasonable costs allocable to the contract performance. The Contractor will be reimbursed for reasonable costs allocable to the contract performance. The State may deduct any unliquidated advance payments made pursuant to *Exhibit "B"* from compensation due the Contractor, and in the event the amount advanced exceeds the compensation yet due the Contractor after termination, that amount shall be remitted to the State within thirty (30) days of contract termination.
7. Remedies. In addition to any other remedies provided for in this contract, and without limiting the remedies otherwise available at law or in equity, the State may exercise the following remedial actions if Contractor substantially fails to satisfy or perform the duties and obligations in this contract. "Substantial failure" to satisfy duties and obligations shall be defined to mean material, insufficient, incorrect or improper performance, activities or inaction by Contractor. These remedial actions are as follows:
  - A. Withhold payment to Contractor until the necessary Services or Goods or corrections in performance, development or manufacture are satisfactorily completed;
  - B. Deny payment for those Services or obligations which have not been performed and/or Goods which have not been provided and which, due to circumstances caused by Contractor, cannot be performed, or if performed would be of no value to the State. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the State; and/or
  - C. Terminate this contract for default.
8. Notice. All notices required to be given by the parties hereunder shall be hand delivered or given by registered or certified mail to the individuals at the addresses set forth below. Either party may from time to time designate in writing new or substitute addresses or persons to whom such notices shall be sent.

For the State:  
Jeanne Smith  
Department of Public Safety, Division of Criminal Justice  
700 Kipling Street, Suite 1000  
Denver, CO 80215

For the Contractor:  
Tom Moore  
City and County of Denver, Community Corrections  
200 W. 14th Avenue, Suite 302  
Denver, CO 80204

9. Entire Understanding. This contract is intended as the complete integration of all understanding between the parties. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or affect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition deletion or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State of Colorado Fiscal Rules.
10. Order of Precedence. In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the document in the following order of priority:
- A. Colorado Special Provisions, *Exhibit "A"*
  - B. Contract, pages 1 through 12
  - C. Allocation Letter, *Exhibit "B"* (two-page sample), attached
  - D. Reallocation Letter, also known as the Funding Letter, *Exhibit "C"* (one page sample), attached
  - E. Resolution, ordinance or statute authorizing the Contractor to enter into an agreement with the State to provide community corrections services, *Exhibit "D,"* attached;
  - F. Colorado Community Corrections Standards, *Exhibit "E"*, attached;
  - G. Community Corrections Month-End Expenditure Form, *Exhibit "F"* (one page sample), attached;
  - H. Colorado Community Corrections Quarterly Administrative Expenditures Summary Form, *Exhibit "G"* (one-page sample), attached.
  - I. The Community Corrections Risk Factor Analysis, *Exhibit "H"*, attached

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

**\* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

<p align="center"><b>CONTRACTOR</b></p> <p>Legal Name of Contractor:</p> <p>By:</p> <p>Title:</p>	<p align="center"><b>STATE OF COLORADO</b>  <b>Bill Ritter, Jr. GOVERNOR</b>                  Colorado Department of Public Safety                  Peter A. Weir, Executive Director</p>
<p align="center">*Signature</p> <p>Date:</p>	<p>By: Jeanne A. Smith, Director                  Division of Criminal Justice</p> <p>Signatory avers to the State Controller or delegate that a Statutory Violation has not occurred and will not occur before the Effective Date or that a waiver has been requested under Fiscal Rules</p> <p>Date:</p>
<p align="center">2nd Contractor Signature if Needed</p> <p>By:</p> <p>Title:</p>	<p align="center"><b>LEGAL REVIEW</b>                  John W. Suthers, Attorney General</p>
<p align="center">*Signature</p> <p>Date:</p>	<p>By:</p> <p>Signature - Assistant Attorney General</p> <p>Date:</p>

**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

**CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.**

<p><b>STATE CONTROLLER</b>                  David J. McDermott, CPA</p> <p>By: _____</p> <p align="center">Jeffrey S. Warren, Controller Delegate</p> <p>Date:</p>
--

**Exhibit A**

**Colorado Special Provisions**

## SPECIAL PROVISIONS

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

- 1. CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
- 2. FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 3. 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, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
- 4. 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 **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
- 5. 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.
- 6. 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.
- 7. 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.
- 8. 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.
- 9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** 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.

**10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]** Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [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 or the Department program established pursuant to CRS §8-17.5-102(5)(c), 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 (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department 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 Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., 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.

**12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09



**Exhibit B**

**Sample Allocation Letter**





**COLORADO  
DEPARTMENT  
OF PUBLIC SAFETY**



**Division of Criminal Justice**  
Jeanne M. Smith, Director

700 Kipling St.  
Suite 1000  
Denver, CO 80215-5865  
DESK (303) 239-4448  
FAX (303) 239-4411

SAMPLE ALLOCATION LETTER # \_\_\_\_\_

FY 2009 – 2010

Date

Dear Contractor:

Pursuant to the contract between the Colorado Department of Public Safety, Division of Criminal Justice (DCJ) and \_\_\_\_\_ in conformity with Contract # \_\_\_\_\_, DCJ hereby notifies you of the following funding allocations for Fiscal Year 2009-2010.

Pursuant to the said Contract, for the period July 1, 2009, through June 30, 2010, payment will be made as earned, in whole or in part, from available State funds encumbered in an amount not to exceed the total sum of \$ \_\_\_\_\_, to be allocated as follows:

\$ \_\_\_\_\_ for residential Diversion services for community corrections offenders, payable at a daily community corrections rate of \$37.74 per offender; and,

\$ \_\_\_\_\_ for residential Transition services for community corrections offenders, payable at a daily community corrections rate of \$37.74 per offender; and,

\$ \_\_\_\_\_ for non-residential services for offenders placed as a Condition of Parole, payable at a daily community corrections rate of \$37.74 per offender; and,

\$ \_\_\_\_\_ for Community Corrections Board Administration by the Contractor, and

\$ \_\_\_\_\_ for the services enumerated below, payable at the specified daily rate per offender:

a) Service: \_\_\_\_\_  
Daily Rate per Offender: \$ \_\_\_\_\_.

b) Service: \_\_\_\_\_  
Daily Rate per Offender: \$ \_\_\_\_\_.

**Bill Ritter, Jr.**  
GOVERNOR  
**Peter A. Weir**  
EXECUTIVE DIRECTOR  
Colorado State  
Patrol  
Colorado Bureau of  
Investigation  
Division of  
Criminal Justice  
Division of Fire Safety  
Office of Preparedness  
and Security



Exhibit B, Page 1 of 2

1. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.
2. Funds allocated in this Allocation Letter are for services rendered during the current contract period, and cannot be used to pay for community corrections services provided in prior or future fiscal years.
3. Any unexpended funds allocated or danced to the Contractor by the Allocation Letter shall be reverted to the State no later than September 30, 2010.
4. This allocation is intended to be effective July 1, 2009, but in no event shall this allocation be deemed valid until it has been approved by the State Controller or his designee.

**APPROVALS:  
State of Colorado:**

**Bill Ritter, Jr., Governor**

Peter A. Weir  
Executive Director, Colorado Department of Public Safety

By: \_\_\_\_\_  
Jeanne M. Smith  
Director, Division of Criminal Justice

Date: \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS §24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller:** David J. McDermott, CPA

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit C**

**Sample Reallocation Letter**



**COLORADO  
DEPARTMENT  
OF PUBLIC SAFETY**



**Division of Criminal Justice**  
Jeanne M. Smith, Director

700 Kipling St.  
Suite 1000  
Denver, CO 80215-5865  
DESK (303) 239-4448  
FAX (303) 239-4411

**SAMPLE REALLOCATION LETTER**

**REALLOCATION LETTER # \_\_\_\_\_  
FY \_\_\_\_\_**

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUBJECT: Changes to Allocation Letter No. \_\_\_\_\_

Dear Contractor:

In accordance with the provisions of Contract # \_\_\_\_\_ between the State of Colorado Department of Public Safety, Division of Criminal Justice (DCJ), and \_\_\_\_\_, covering the period of July 1, 20\_\_\_\_ through June 30, 20\_\_\_\_:

The maximum amount of funds available and specified in Allocation Letter # \_\_\_\_\_ to Contract # \_\_\_\_\_ is (increased/decreased) by (\$ amount of change) to a new total funds available of (\$ \_\_\_\_\_) for \_\_\_\_\_ services under the contract.

The effected lines of Allocation Letter # \_\_\_\_\_ to Contract # \_\_\_\_\_ shall now read: " \_\_\_\_\_".

The funding letter is effective upon approval by the State Controller or such assistant as he may designate.

This amendment to the contract is intended to be effective \_\_\_\_\_, 20\_\_\_\_, but in no event shall this amendment be deemed valid until it shall have been approved by the State Controller or his designee.

**APPROVALS:**

**State of Colorado:**  
\_\_\_\_\_, Governor

**Bill Ritter, Jr.**  
GOVERNOR

**Peter A. Weir**  
EXECUTIVE DIRECTOR

Colorado State  
Patrol

Colorado Bureau of  
Investigation

Division of  
Criminal Justice

Division of Fire Safety

Division of Preparedness  
and Security



By: \_\_\_\_\_  
For the Executive Director  
Colorado Department of Public Safety

Date: \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS §24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller:** David J. McDermott, CPA

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit D**

**Colorado Statute Authorizing Contract**



**17-27-103. Community corrections boards - establishment - duties.**

- (1) A community corrections board may be established by resolution or ordinance of a governing body, or a combination of governing bodies. Any community corrections board which is established may be advisory to the governing body or bodies which created such board or it may be functionally independent from the governing body or bodies. Pursuant to subsection (8) of this section, the governing body or bodies may delegate to the community corrections board the authority which such governing body or bodies have to approve or disapprove the establishment and operation of community corrections programs within the jurisdiction of such governing body or bodies. In addition, the governing body or bodies may delegate such other powers which the governing body or bodies possess to the community corrections board to accomplish the purposes of this article.
- (2) A community corrections board shall have the authority to enter into contracts with the state of Colorado, receive grants from governmental and private sources, and receive court-authorized expense reimbursement related to community corrections programs. A community corrections board may designate a community corrections program or programs within the jurisdiction of such board to contract with the state of Colorado to provide services and supervision for offenders.
- (3) A community corrections board may establish programs to be operated by a unit or units of local government, or an agency of state government, to accomplish the purposes of this article, or such board may contract with other units of local government, other community corrections boards, any agency of state government, or any community corrections program to provide supervision of and services for offenders.
- (4) A community corrections board may establish and enforce standards for the operation of any community corrections program located within the physical boundaries of the jurisdiction of the governing body or bodies which created such board. The standards established by a community corrections board may exceed, but shall not conflict with, standards established for community corrections programs by the division of criminal justice of the department of public safety pursuant to section 17-27-108. The community corrections board shall, in coordination with state and local agencies, monitor community corrections programs within the jurisdiction of such board and oversee compliance with state and local standards. The community corrections board's oversight of the community corrections programs within the board's jurisdiction shall include the following:
  - (a) Making an assessment of the number of offenders who have escaped from custody as such term is described in section 17-27-106, which assessment shall be based on the reports prepared by the administrators of community corrections programs in accordance with section 17-27-104 (11);
  - (b) Determining compliance by community corrections programs with the recommendations made in audit reports prepared by the division of criminal justice in accordance with section 17-27-108.
- (5) A community corrections board has the authority to accept or reject any offender referred for placement in a community corrections program under the jurisdiction of such board. The community corrections board shall provide, in writing, acceptance criteria and screening procedures to each referring agency.
- (6) A community corrections board may establish conditions or guidelines for the conduct of offenders placed in any community corrections program operated within the physical boundaries of the jurisdiction of the governing body or bodies which created such board. Written copies of such

conditions or guidelines shall be made available to offenders placed in community corrections programs under the jurisdiction of the community corrections board.

(7) A community corrections board has the authority to reject after acceptance the placement of any offender in a community corrections program within the jurisdiction of such board. If the referring agency does not provide an administrative review process relating to such rejection after acceptance, the community corrections board shall provide an administrative review process for any offender who is rejected after acceptance by such board. The community corrections board shall provide written notification of the rejection after acceptance of any offender to the referring agency and the administrator of the community corrections program in which the offender is placed.

(8) A governing body shall approve or disapprove the establishment and operation of all community corrections programs within the jurisdiction of such governing body, but such authority may be delegated to the community corrections board created by such governing body.

(9) A community corrections board may serve in a planning and coordinating capacity by advising the governing body which created such board and consulting with officials of state criminal justice agencies to improve local community corrections services.

(10) A community corrections board, and each individual member of such board, shall be immune from any civil liability for the performance of the duties of such board or such individual member as specified in this article, if such person was acting in good faith within the scope of such person's respective capacity, makes a reasonable effort to obtain the facts of the matter as to which action was taken, and acts in the reasonable belief that the action taken by such person was warranted by the facts.

**Source: L. 93:** Entire article R&RE, p. 710, § 1, effective July 1. **L. 95:** (4) amended, p. 80, § 1, effective March 23.

## **Exhibit E**

### **Colorado Community Corrections Standards**

**EXHIBIT B**

**Certificate of Insurance**

**Contract Control Number:**

**Vendor Name:**

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 \_\_\_\_\_



IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals at Denver, Colorado as of the day first above written.

**Contract Control Number:** 201101632

**Vendor Name:** RRK ENTERPRISES dba INDEPENDENCE HOUSE

By: *Jose Manuel Rodriguez*

Name: JOSE M. RODRIGUEZ  
(please print)

Title: EXECUTIVE DIRECTOR  
(please print)

**ATTEST: [if required]**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

