

AGREEMENT

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized and existing by virtue of Article XX of the *Constitution* of the State of Colorado, (hereinafter, the "City"), and **DENVER OPTIONS, INC.**, a not-for-profit corporation licensed and authorized to do business in the State of Colorado, whose address is 9900 East Iliff Avenue, Denver, Colorado 80231 (hereinafter, the "Contractor"), collectively "the Parties".

RECITALS:

1. Subject to annual appropriations by the Colorado General Assembly, the Colorado Department of Human Services, pursuant to Colo. Rev. Stat. §§ 27-10.5-101, *et seq.*, provides funds to community centered boards for persons with developmental disabilities who have been determined to be eligible for such services and supports.

2. The Contractor has been previously designated by the Division for Developmental Disabilities of the Colorado Department of Human Services as the Community Centered Board ("CCB") for the Denver service area and has received state funds under an agreement with the State of Colorado (the "Contractor's State Contract") to provide services for State fiscal year 2012-2013 to the developmentally disabled in the Denver service area.

3. Pursuant to Colo. Rev. Stat. §27-10.5-104(6) and (7)(a), five percent of state funding for the care and treatment of the developmentally disabled shall be derived from local funding which may include funds obtained from a mill levy assessed for the purpose of providing funds for services for developmentally disabled persons.

4. Colo. Rev. Stat. §27-10.5-104(6) provides that boards of county commissioners may levy up to a total of one (1) mill in property taxes to purchase services and support for the CCB program.

5. Pursuant to Colo. Rev. Stat. §27-10.5-104(6) and the provisions of the City's Charter, the electors of the City, at the election of May 6, 2003, approved Initiative 100, which provided for an increase in real and personal property taxes within the City, for the purpose of augmenting and supplementing the tax monies previously available for funding of the CCB from the City and which read as follows:

"SHALL DENVER'S TAXES BE INCREASED BY APPROXIMATELY \$6,497,300 ANNUALLY, TO PROVIDE SERVICES AND SUPPORT FOR CHILDREN AND ADULTS OF DENVER WITH MENTAL RETARDATION OR RELATED DEVELOPMENTAL DISABILITIES, BY INCREASING THE EXISTING PROPERTY TAXES DEDICATED TO SUCH ASSISTANCE THROUGH DENVER OPTIONS, INC., THE CURRENT COMMUNITY-CENTERED BOARD FOR THE CITY AND COUNTY OF DENVER BY AN ADDITIONAL 0.860 MILL UPON ALL TAXABLE PROPERTY, REAL, PERSONAL, AND MIXED, WITHIN THE CITY AND COUNTY OF DENVER,

DENVER, TO BE SPENT AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY, AND SHALL THE REVENUES FROM SUCH ADDITIONAL MILL LEVY BE COLLECTED AND SPENT BY THE DISTRICT WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?”.

6. The City now desires to provide the dedicated mill levy tax revenues authorized by Initiative 100 to the Contractor to effectuate the purposes of Initiative 100 by providing or causing to be provided services to the developmentally disabled as described in more detail in Exhibit A.

7. The Contractor represents and warrants that it has conducted a public hearing on its proposed 2013 budget, which budget is contained in Exhibit A, and is ready, willing and able to undertake such services as an independent contractor.

NOW THEREFORE, the parties agree as follows:

1. CITY LIAISON:

A. The Contractor shall fully report all services hereunder to the City, including the Denver Department of Human Services or as otherwise directed by the City.

B. The City’s Manager of Human Services (“Manager”) or the Manager’s designee is the City’s representative under this Agreement to whom contractual services performed under this Agreement shall be reported.

2. SERVICES TO BE PROVIDED:

A. During the term of this Agreement, the Contractor shall diligently undertake, perform, and provide the services, tasks, deliverables, and activities, necessary to effectuate the purposes of Initiative 100 and the services described in the Contractor's scope of services a copy of which is attached hereto and incorporated herein by reference marked as Exhibit A. In the event of any conflict between the terms and conditions contained herein and those of Exhibit A such that the full effect cannot be given to both or all provisions, then the terms and conditions contained herein shall control.

B. The services described in Exhibit A will be provided by the Contractor, approved service agencies, or other subcontractors designated by the Contractor. The services provided by the Contractor under this Agreement, including its selection of, agreements with, and monitoring of approved provider agencies and other subcontractors, shall be subject to and performed in accordance with the Contractor's contract or contracts with the Division for Developmental Disabilities of the Colorado Department of Human Services, with applicable Colorado statutes and rules and

regulations, including but not limited to Colo. Rev. Stat. §27-10.5-101, *et seq.*, and 2 C.C.R. 503-1, and with any and all applicable City requirements.

C. The parties may, in order to effectuate the purposes of Initiative 100, modify Exhibit A to increase, decrease, or revise the services contained therein. The parties shall memorialize in writing any and all modifications to Exhibit A by revising and restating said Exhibit including the date upon which the modified Exhibit will take effect. Any modification to Exhibit A shall not take effect unless and until it is approved in writing by both parties, approved as to form by the City Attorney's office, and filed by the Agency with the City Clerk.

D. The Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

E. Construction is not contemplated as a part of the agreed Scope of Work. Services and other items identified in section 5.D., will be provided in the City and County of Denver. Contractor's reports will identify the place of performance or delivery including: Street Address, City, County, State, Country, Zip Code+4.

3. TERM: The initial term of this Agreement will commence on January 1, 2013, and terminate on December 31, 2013 (the "Initial Term"), subject to unilateral options in the City to renew for four (4) additional one (1) year periods ending December 31 (if all four renewal options are exercised). The First Renewal Term will be from January 1, 2014, until December 31, 2014; the Second Renewal Term will be from January 1, 2015, until December 31, 2015; the Third Renewal Term will be from January 1, 2016, until December 31, 2016; and the Fourth Renewal Term will be from January 1, 2017, until December 31, 2017. Each renewal option will be exercised by the action of the city council in appropriating funds for the distribution of revenues generated from Initiative 100 mill levy tax. In the event that any such appropriation for this Agreement is not made for a future fiscal year, the City will be deemed to have thereby failed to exercise its option to renew this Agreement for any additional renewal period and this Agreement will expire at the end of the then current term.

4. CONTRACTOR'S RESPONSIBILITIES: In addition to any and all obligations required by law or stated elsewhere in this Agreement or in any attachments hereto, the Contractor shall:

A. As reasonably requested by the Manager or the Manager's designated representative, report timely to the Manager concerning the provision of services hereunder and attend and participate in meetings as reasonably requested by the Manager or the Manager's designated representative;

B. Utilize individuals who have adequate skills and experience for their respective functions in providing the services under this Agreement;

C. Permit the City to carry out reasonable monitoring and evaluation activities in order to review any of the procedures used by the Contractor in doing the work under this Agreement and to make available for inspection any and all non-confidential notes and other documents used in performing the work. The Contractor shall require by contract the cooperation of its employees, agents, board members, service agencies, and subcontractors in such monitoring and evaluation efforts;

D. Establish and maintain record keeping policies in accordance with the requirements established by applicable state law or as reasonably required by the City, including the City Auditor, concerning the provision of services and expenditure of funds provided under this Agreement including but not limited to establishing and maintaining financial and performance records with respect to all matters covered by this Agreement in sufficient detail and in a manner sufficient to conform to generally accepted accounting principles so as to allow audit of the expenditure of City funds received by the Contractor. The Contractor shall retain such financial and performance records for a period of six (6) years from the date of final payment to Contractor under this Agreement.

E. Notify the Manager promptly in writing if, during the term of this Agreement, the Contractor loses its designation as the CCB for the Denver service area or if any action or proceeding of any nature is commenced concerning the revocation of the Contractor's state certification as a CCB for the Denver service area.

F. Convene and maintain an advisory committee that will meet at least twice annually at a time and location determined by Denver Options' Board of Directors. The purpose of the advisory committee was established by Denver Options' Board of Directors, to have a forum in which advisory committee members can provide advice to Denver Options' Management and Board of Directors. Denver Options' Board of Directors is responsible for establishing the official charge of responsibilities to the committee and determining the criteria that will be used to select advisory committee members. Denver Options' Board of Directors will generally base its decisions on each candidate's professional or personal knowledge of services for children and/or adults with developmental disabilities, or based on a candidate's keen awareness of the needs of the Denver community. The Denver Options Board will determine the size of the committee, its composition, and terms for each advisory committee member. Each committee member must be approved by consent of Denver Options' Board of Directors, based on a majority vote of the Board. The advisory committee will be convened for the primary purpose of receiving a briefing on the progress and direction of services that are supported by mill levy funds. Advisory committee members will have an opportunity to provide feedback on current or proposed areas of mill levy expenditures consistent with the Yes on 100 campaign pledges that led to the passage of initiative 100 on May 6, 2003. Advice and feedback from advisory committee members will be given consideration by Denver Options' Management and Board of Directors during its annual planning process.

G. Faith-based organizations. The Contractor in providing services under this Agreement and its service providers and subcontractors providing services under this Agreement or in expending any distributions derived from the Initiative 100 mill levy tax, shall not use revenues derived from the Initiative 100 mill levy tax to engage in inherently religious activities, such as worship, religious education or instruction, or proselytization. If the Contractor or any service provider or subcontractor providing services under this Agreement engages in such inherently religious activities, the inherently religious activities must be offered separately, in time and location, from the programs, activities, or services supported by the Initiative 100 tax, unless offering such inherently religious activities in a separate place would not be practicable due to the physical limitations of the facility in which the services under this agreement are held. Nothing in this Agreement shall be construed to affect a provider's or subcontractor's right to engage in privately funded, inherently religious activity or affect the independence of entity or person, including any rights protected by the Colorado and U.S. Constitutions and applicable law.

5. COMPENSATION AND PAYMENT:

A. Maximum Obligation of the City. The City shall have no obligation under this Agreement to make distributions to the Contractor that exceed the amount appropriated each year by the city council of the City for the purposes of this Agreement and paid into the Treasury of the City. The Manager shall request an appropriation for the purposes of this Agreement each year, based upon the estimated receipts of the Initiative 100 mill levy tax. Further, the Manager may request a supplemental appropriation during the initial term of this Agreement or any renewal term, based upon the revised estimates of receipts of the Initiative 100 mill levy tax. Commencing with 2012 property taxes collected in 2013 and continuing for any renewal term of this Agreement, the City shall include within the estimated receipts, requested appropriations, and distributions to the Contractor, any revenue derived from the imposition of the Initiative 100 mill levy tax (calling for one full mill to be assessed for developmental disabilities services as adjusted for abatements and refunds) upon the incremental value of taxable property located within any urban renewal area in the City, notwithstanding any provision of section 31-25-107 (9)(a)(II), C.R.S. to the contrary.

B. Reimbursement. Contractor will be reimbursed upon receipt and approval of Contractor's Monthly Expenditure Reports, as described in this subparagraph, and based upon estimated mill levy revenues dedicated for Initiative 100, to the extent the same have, in fact, been appropriated, paid into the Treasury and encumbered as described in herein. Reimbursements shall be processed in the amount of the monthly expenditure reports as described in section 5D. Total reimbursements for each annual term shall not exceed the revenue generated from Initiative 100 for such respective term. At the end of each city fiscal year, expenditure reports for the months of November and December shall be estimated as required by the Manager. Final expenditure reports, including any and all reconciliations between estimated and actual expenditures, for these months shall be submitted no later than January 31 of the

following calendar year. The Contractor will expend funds provided under this Agreement to provide the services stated on Exhibit A.

C. Budget “Carry Forward”. In the event that funds received by the Contractor under this Agreement during a particular month are not expended, such unused amount may be carried forward by the Contractor and used for administrative or programmatic expenditures in a subsequent month or months, subject to the other limitations set forth in this Agreement. If the City exercises its option to renew the Initial Term, or any Renewal Term, then any unused amounts may also be carried forward by the Contractor for administrative and programmatic expenditures in a subsequent renewal term. At such time, if ever, that the unexpended funds of the Contractor, as evidenced by the Monthly Expenditure Report(s) referenced in section 5. D., exceed by 100% the anticipated expenditures of the Contractor in any ensuing month, the City may (following consultation with the Contractor) reduce the appropriation for said ensuing month accordingly. Furthermore, if at such time, if ever, the Contractor holds unexpended funds from the Initiative 100 mill levy tax and there are no subsequent periods permitted by this Agreement, to continue services, then the Contractor will return such funds to the City upon ninety (90) days written notice from the Manager.

D. Monthly Expenditure Reports. The Contractor shall prepare and submit to the City, monthly reports (the “Contractor’s Expenditure Report(s)”) setting out in detail an itemized description by expense category, including but not limited to, expenses for supports and services, administrative costs associated therewith, purchases of Supplies, Equipment and Controlled Assets (as such terms are defined in Article 10 below), and real property, if any, of the amount of all monies actually expended by Contractor during the month immediately preceding the date of the Expenditure Report, and all monies to be carried forward by the Contractor for use in the subsequent month. Contractor’s Monthly Expenditure Reports shall be submitted no later than the last day of the following month for which Contractor seeks reimbursement. Each Expenditure Report shall be certified to be correct by an authorized representative of Contractor and shall reference the Contract Control number of this Agreement as designated below on the City’s signature page. Any and all incorrect payments issued to the Contractor due to any omission, error, fraud, and/or defalcation shall be recovered from the Contractor: 1) by a deduction from subsequent payments under this Agreement; 2) by refund from the Contractor to the City if no subsequent payments are due to the Contractor; 3) by the City as a debt due to the City; or 4) as otherwise permitted or provided by law.

Each Expenditure Report shall be supported with official documentation evidencing, in detail, the nature and propriety of the charges including time sheets, payrolls, receipts and any other document which may be pertinent in light of the nature of services to be performed under this Agreement and showing that services were performed within the period for which the payment is requested. Such official supporting documentation shall be maintained by Contractor at its offices listed on page one of this Agreement. Contractor shall provide the City with copies of any and all documentation supporting its Expenditure Reports upon request.

The City reserves the right to reduce, suspend, or withhold funds under this Agreement whenever it determines that Contractor's current spending is inconsistent with the categories, and purposes, listed on Exhibit A, that services and supports have not been provided in accordance with Initiative 100, this Agreement, or applicable laws, or if any reports required under this Agreement are not provided by Contractor on a timely basis.

E. Reconciliation. There shall be, on or before six months after final payment to the Contractor for services provided during the Initial Term, or any renewal term, if exercised, a final adjustment of mill levy funds to reflect the difference, if any, between the total disbursements to the Contractor under this Agreement and the total amount of mill levy funds actually collected by the City to provide services for persons with disabilities, including Initiative 100 collections. If the total payments to the Contractor under this Agreement are greater than the total amount of mill levy funds collected by the City for purposes of Initiative 100, then the Contractor shall reimburse said amount to the City upon thirty (30) days written notice from the Manager. If the total amount of mill levy funds collected by the City for Initiative 100 for the Initial Term or any Renewal Term is greater than the total amount of payments made to the Contractor under this Agreement in said term and if the Contractor has actually incurred costs and expenses that have not been reimbursed by the City in said term, then the City shall reimburse the Contractor for such costs and expenses within ninety (90) days of Contractor's written notice to the Manager detailing the additional unreimbursed costs and expenses.

F. Appropriation Required. Funding for this Agreement is derived entirely and exclusively from mill levy revenues designated for purposes of providing funds for services for developmentally disabled persons. Therefore, the City's payment obligation, whether direct or contingent, under this Agreement extends only to funds raised pursuant to lawfully dedicated mill levy revenues, appropriated annually by the Denver City Council paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

G. Future Funding: Except to the extent provided for the renewal terms expressly stated above, this Agreement provides for the distribution of mill levy revenues actually collected by the City during the initial term and any renewal term only and does not obligate the City to provide funds to the Contractor or any other CCB for any other year. The Contractor shall conduct a public hearing presenting a general overview of the progress of service delivery based on the use of mill levy funding, and presenting proposed areas of expenditures, and for the purpose of receiving feedback and recommendations from citizens of the City and County of Denver, which may be factored in to the planning and budget preparation before submitting a future budget request to the Denver Department of Human Services.

6. REPORTS/CORRESPONDENCE:

A. Quarterly and Annual Progress Reports. The Contractor shall submit quarterly progress reports in the first and third quarters of the year and one cumulative semi-annual report for the first and second quarters of the year and one annual contract at the end of the fourth quarter of the year in a form approved by the Manager describing in detail all services provided under this Agreement including but not limited to the total number of persons receiving services under this Agreement, types of services and supports provided, the costs of services and supports regardless of funding source, and include in the annual report an evaluation of the quality of the services and supports rendered, and an evaluation of the effectiveness of the services and supports rendered in implementing any and all individualized plans of persons receiving services, the numbers, types, and resolution of disputes between the Contractor and recipients of services under this Agreement; the total number of persons determined to be eligible to receive services and supports who the Contractor has determined are not receiving services or supports under this Agreement or under any other authorized program along with an analysis of the reasons why they are not receiving services and supports; and any other information reasonably requested by the Manager concerning the provision of services under this Agreement. Each report shall be delivered to the Manager within forty-five (45) days after the end of each period.

B. Additional Reports. During the Initial Term of this Agreement or any Renewal Term, the Contractor shall also prepare and deliver on dates mutually agreed upon by the parties written reports and presentations to the City Council describing all of its programs and operations as the CCB for the City and County of Denver, program costs and expenditures, and community outreach efforts.

C. Correspondence. All Reports, and other written correspondence concerning procedural or administrative contract matters, other than notices required under Article 20 of this Agreement, will be delivered electronically to DHS_Contracting_Services@denvergov.org or by U.S. mail to:

Attn: Contracting Services
Denver Department of Human Services
1200 Federal Boulevard, 4th Floor
Denver, Colorado 80204

Invoices shall be delivered electronically to DHS_Contractor_Invoices@denvergov.org or by US Mail to:

Attn: Financial Services
Denver Department of Human Services
1200 Federal Boulevard
Denver, Colorado 80204.

7. STATUS OF CONSULTANT: The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under

Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever. Contractor is a corporation and as such is responsible for the operational management, errors and omissions of its employees.

8. TERMINATION OF AGREEMENT:

A. The City may immediately terminate this Agreement if the Contractor's state certification as a CCB for the Denver service area is suspended or revoked for any reason.

B. The City may further terminate this Agreement for cause if the Contractor's services are not being satisfactorily performed in accordance with this Agreement or are not effectuating the purposes of Initiative 100. Prior to termination of this Agreement by the City for cause, the City shall notify the Contractor in writing of its intent to terminate the Agreement for cause, identify the deficiencies in the Contractor's performance giving rise to such intent, and shall give the Contractor ninety (90) days to cure such deficiencies before the City may terminate this Agreement for cause.

C. Notwithstanding the preceding provisions, the City may by written Notice of Default to Contractor immediately 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 a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

D. Upon termination of the Agreement, for any reason, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

9. EXAMINATION OF RECORDS:

A. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any directly pertinent books, bank statements, records, returns, cost accounting records, files, and any other records or documents (whether prepared or maintained in hardcopy or electronic format) (the "Contractor's Records") prepared or maintained by the Contractor involving matters or transactions in any way, directly or indirectly, related to this Agreement except those matters required to be kept confidential by law. Further, the City Auditor shall have the right at any time, and from time to time, to audit Contractor's Records and the Contractor, upon request, shall make all such matters available for such examination. If Contractor's Records exist in electronic form, the Contractor shall maintain a means of transferring said records to hardcopy form. Such right of access

and examination shall continue until the latter of six (6) years after the final payment under this Agreement or expiration of the applicable statute of limitations.

B. In addition, the Contractor shall permit public inspection of records involving the services and supports provided under this Agreement or the expenditure of tax monies received from the City in accordance with the procedures set forth in §§24-72-203 and 24-72-205 of the Colorado Open Records Act, C.R.S. §24-72-201, *et seq.*, provided that the Contractor shall not be required to permit such public inspection of records to the extent that such public inspection is prohibited by the provisions of C.R.S. §§27-10.5-101 to 137, by Rules and Regulations promulgated by the Colorado Department of Human Services, by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and by requirements set forth by the Centers for Medicare and Medicaid Services.

C. In accordance with 2 C.C.R. 16.243B, the Contractor shall prepare and submit to the Colorado Department of Human Services financial reports including but not limited to an annual financial statement, and pursuant to 2 C.C.R. 16.244, the Contractor shall cause an annual audit of its operations to be prepared in accordance with generally accepted accounting principles. The Contractor shall provide a copy of its annual audit to the Manager within thirty (30) days of the date of the Manager's written request. If the Contractor instead chooses to conduct, through an independent auditor, an audit of its operations under this Agreement separate and apart from the audit required under the Contractor's State Contract, then the Contractor shall provide to the Manager a copy of such other audit for all services provided under this Agreement. Final financial settlement under this Agreement shall be contingent upon receipt and acceptance of Contractor's audit and the audits of Contractor's services agencies.

D. Unless exempted from the independent audit requirement by the Contractor and the Colorado Department of Human Services pursuant to 2 C.C.R. 16.244, the Contractor shall submit to the Manager copies of annual audits for any and all services agencies providing service under this Agreement within thirty (30) days of the date of the Manager's written request for such copies if and when said audits are available. The Contractor may bill to the City for its pro rata share of audit costs under general and management administrative costs; provided, however, that any costs outside the scope of normal audit costs, as reasonably determined by the Manager, will be the sole responsibility of the Contractor.

E. If, as a result of any audit relating to the fiscal performance of Contractor, the City receives notice of any irregularities or deficiencies in said audits, then the City shall notify the Contractor of such irregularities or deficiencies. The Contractor shall correct all identified irregularities or deficiencies within the time frames designated in the City's written notice. If the identified irregularities or deficiencies cannot be corrected by the date designated by the City, then Contractor shall so notify the City in writing and shall identify a date that Contractor expects to correct the irregularities or deficiencies; provided, however, that the irregularities or deficiencies shall be corrected no later than ninety (90) days from the date of the City's notice.

10. PROCUREMENT: The Contractor shall spend funds provided under this Agreement in a way that serves the public interest, honors the public trust, and is consistent with Exhibit A. "Supplies" means all tangible personal property other than Equipment as defined below. "Equipment" means tangible personal property having a useful life of more than one year and an acquisition cost of Five Thousand Dollars (\$5,000.00) or more per unit. "Controlled Assets" means tangible personal property having an acquisition cost of no less than Five Hundred Dollars (\$500.00) and no more than Four Thousand Nine Hundred Ninety Nine Dollars and Ninety Nine Cents (\$4,999.99) and tangible personal property that fall in the following categories: computers, laptops, scanners, facsimile machines, copiers, printers, and capital leases with a present value of no less than Two Thousand Five Hundred Dollars (\$2,500.00) and no more than Four Thousand Nine Hundred Ninety Nine Dollars and Ninety Nine Cents (\$4,999.99).

The Contractor shall use funds provided under this Contract solely for the purposes of effectuating the purposes of Initiative 100 as set forth in Exhibit A. If requested by the Manager or the Manager's representative, the Contractor shall establish and submit to the Manager an inventory list, in such format as designated by the Manager and within thirty days of said request, of all real property, Equipment, and Controlled Assets purchased under this Agreement. Contractor shall update said inventory list as necessary on a timely basis. The inventory shall specify the location of all Equipment and Controlled Assets and Real Property so purchased. Upon the expiration or earlier termination of this Agreement, unless the Agreement is renewed by a written amendment hereto executed by the parties in the same manner as this Agreement, all real property, Equipment and Controlled Assets purchased with funds under this Agreement shall either be returned to the City, disposed of as the City shall direct, or passed on to any succeeding Community Centered Board if directed to do so by the City along with any supplies purchased by Contract funds.

11. LAWSUITS: The Contractor shall report in writing to the City within seven (7) calendar days of the date upon which any legal or governmental action or proceeding (including administrative actions or proceedings by a governmental entity) connected with or related to the services provided under this Agreement is initiated by or brought against Contractor. The Contractor shall not use funds provided under this Agreement to pay for any of its legal fees, costs, or expenses incurred as a result of such legal action or proceeding initiated by or brought against Contractor (including administrative actions or proceedings by a governmental entity).

12. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

13. INSURANCE AND BONDS:

A. 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 requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said 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. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. 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 City reserves the right to require the Contractor to provide a bond, at no cost to the City, in the amount of the deductible or self-insured retention to guarantee payment of claims. 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.

B. 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.

C. 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.

D. Waiver of Subrogation: For all coverages, Contractor's insurer shall waive subrogation rights against the City.

E. 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.

F. 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.

G. 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.

H. 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.

I. Professional Liability (Errors & Omissions): Contractor shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

J. Additional Provisions:

(1) 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 are in excess of policy limits;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion);
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City; and
- (v) No exclusion for sexual abuse, molestation or sexual misconduct.

(2) 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.
- (ii) 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.

K. The Contractor, and all approved service agencies, shall obtain and keep in force during the term of this Agreement a fidelity bond, in form and surety acceptable to the City, made payable to the City and conditioned upon the faithful and honest utilization and handling by their respective officers, employees, and agents of all monies paid to the Contractor by the City pursuant to this Agreement in order to protect the City against any malfeasance or misfeasance with respect to the handling of such funds on the part of such persons or entities.

In addition, the Contractor and all approved service agencies shall obtain and keep in force a surety bond, or provide an irrevocable letter of credit, made payable to the City in a form acceptable to the Risk Administrator to protect the personal needs of the persons receiving services under this Agreement and in an amount not less than the amount of any surety bond provided to the State of Colorado provided to the State of Colorado pursuant to 2 CCR 16.245 (C) and (E). The bonds shall be provided to the City within sixty (60) days of the date of this Agreement.

14. DEFENSE AND INDEMNIFICATION:

A. Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and 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 such Claims have been specifically determined by the trier of fact to be 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 Contractor 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.

B. Contractor'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. Contractor'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.

C Contractor 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.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

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

15. GOVERNMENTAL IMMUNITY: Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S., 24-10-101 *et seq.*, as now or hereafter amended. It is acknowledged that any liability for claims for injuries to persons or property arising out of the negligence of the City, its departments, agencies, officials and employees, is controlled and limited by the provisions of the Colorado Governmental Immunity Act as now or hereafter amended and other applicable laws.

16. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance § 20-107, *et seq.* of the Denver Revised Municipal Code (D.R.M.C.). The Contractor shall promptly pay when due, all taxes, excises, license fees and permit fees of whatever nature applicable to its operations, and to take out and keep current all required licenses or permits, whether municipal, state or federal, required for the conduct of its business hereunder, and further agrees not to permit any of said taxes, excises or license or permit fees to become delinquent. 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 permits and all taxes. The Contractor further agrees to pay promptly when due all bills, debts and obligations it incurs

performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

17. ASSIGNMENT; SUBCONTRACTING: The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract its performance obligations, under this Agreement without obtaining the Manager's prior written consent except as follows: subcontracts to provide direct services to persons with disabilities within the ordinary course of providing care and services will not require prior written consent of the Manager. Any assignment or unauthorized subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The Manager 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.

18. INUREMENT: The rights and obligations of the parties to the Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

19. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

20. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

21. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect 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 amendatory or other Agreement properly executed by the parties. No oral representation by any officer or employee of the City at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect nor bind the City. Amendments to this Agreement will become effective when approved by both parties and executed in the same manner as this

Agreement. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

22. 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.

23. CONFLICT OF INTEREST:

A. 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.

B. 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.

24. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

By Contractor to: Manager, Denver Department of Human Services
City and County of Denver
1200 Federal Boulevard
Denver, Colorado 80204

With a copy of any such notice to: Supervisor

Contracting Services
Denver Department of Human Services
1200 Federal Boulevard
Denver, Colorado 80204

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses

where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

25. DISPUTES: All disputes of whatsoever nature between the City and Contractor regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code 56-106(b)-(f). For the purposes of that procedure, the City official rendering a final determination shall be the City representative identified in Article 1 hereof.

26. GOVERNING LAW, VENUE: Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and promulgated pursuant thereto. Such applicable laws, together with the Charter and Revised Municipal Code 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.

27. COMPLIANCE WITH APPLICABLE LAWS: The services provided under this Agreement, whether directly as the CCB or through approved service agencies, shall be performed in compliance with all applicable Federal, State and City laws, ordinances, codes, regulations, rules, executive orders, and policies whether or not specifically referenced herein including but not limited to Colo. Rev. Stat. 27-10.5-101, *et seq.*, and 2 C.C.R. 503-1.

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

A. 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").

B. The Contractor certifies that:

- (1)** 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.
- (2)** 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.

C. The Contractor also agrees and represents that:

- (1)** It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

- (2) 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.
- (3) 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.
- (4) It is prohibited from using either 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.
- (5) 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.
- (6) 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.

D. 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.

29. PASS-THROUGH OF CITY OBLIGATIONS PURSUANT TO THE APPLICANT VERIFICATION STATUTE:

A. This Agreement is subject to Article 76.5 of Title 24, Colorado Revised Statutes, and any rules adopted pursuant thereto, as now existing or as amended. On the request of the Agency, the Contractor shall verify the lawful presence in the United States, of each natural person eighteen years of age or older (the "Applicant"), who

applies for Federal, State or Local Public Benefits (“Benefits”) conferred pursuant to this Agreement, as such Benefits are defined in the Applicant Verification Statute. On the request of the Agency, the Contractor shall require the Applicant to produce one of the forms of identification listed in the Applicant Verification Statute, and execute an affidavit in the form attached to this Agreement as Exhibit C and incorporated here by reference. Where applicable, the Contractor shall maintain copies of each Applicant’s identification documentation and affidavit, and shall make such copies available to the City upon request.

30. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

31. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A 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 contract personnel being barred from City facilities and from participating in City operations.

32. CONFIDENTIAL INFORMATION; OPEN RECORDS:

A. Confidential Information: The Contractor acknowledges and accepts that, in the performance of all work under the terms of this Agreement, the Contractor will or may have access to the following types of information: (1) City Proprietary Data or confidential information that may be owned or controlled by the City (“City Proprietary Data”); (2) confidential information pertaining to persons receiving services from the Department (“Client Data”), or (3) confidential proprietary information owned by third parties (“Third Party Proprietary Data”). For purposes of this Agreement, City Proprietary Data, Client Data, and Third Party Proprietary Data shall be referred to collectively as “Confidential Information”. The Contractor agrees that all Confidential Information provided or otherwise disclosed by the City to the Contractor or as otherwise acquired by the Contractor during its performance under this Agreement shall be held in confidence and used only in the performance of its obligations under this Agreement. The Contractor shall limit access to any and all Confidential Information to only those employees who have a need to know such information in order to provide services under this Agreement. The Contractor shall exercise the same standard of care to protect any and all Confidential Information as a reasonably prudent contractor or Contractor would to protect its own proprietary or confidential data. Contractor acknowledges that Confidential Information may be in hardcopy, printed, digital or electronic format. The City reserves the right to restrict at any time Contractor’s access

to electronic Confidential Information to “read-only” access or “limited” access as such terms are designated by the Manager.

B. The Contractor agrees to comply with all applicable state and federal laws protecting the privacy or confidentiality of any and all Client Data that include protected medical records or protected information. The Contractor shall establish and submit to the City, within fifteen (15) days of the City’s written request thereof, copies of Contractor’s policies and procedures to maintain the confidentiality of any protected medical records or protected information to which the Contractor has access. In the event that the Contractor is required to access Client Data, that include protected medical records, from a third party provider or is required to provide Client Data, including protected medical records, to the City for purposes of monitoring and evaluating the Contractor’s performance under this Agreement, then the Contractor agrees to fully coordinate with the DPS case managers and the client in order to obtain any necessary consent forms, authorization forms, or release forms.

1. **Use of 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 any 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 access to 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 reveal, publish, disclose, or distribute to any other party, in whole or in part, in any way whatsoever, any Confidential Information without prior written authorization from the Manager.

2. The Contractor agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by the Contractor or provided by the City in connection with this Agreement shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Contractor agrees, with respect to Confidential Information, that: (a) the Contractor shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Manager; (b) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (c) 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 requirements of this provision shall be binding on the Contractor’s employees, agents, officers and assigns. The Contractor warrants that all of its employees, agents, and officers who designated to provide services under this Agreement will be advised of this provision. All requirements and obligations of the Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.

4. **Disclaimer:** Notwithstanding any other provision of this Agreement, the City is furnishing 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, accuracy and completeness of the Confidential Information. The Contractor acknowledges and understands that Confidential Information may not be completely free of errors. The City assumes no liability for any errors or omissions in any Confidential Information. 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.

C. **Open Records:** The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S. (2012), 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 proprietary or confidential material. 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 claims, damages, expenses, losses 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.

33. **INTELLECTUAL PROPERTY RIGHTS:** The City and Contractor intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, drawings, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Contractor and paid for by the City pursuant to this Agreement, in preliminary and final forms and on any media whatsoever (collectively, “Materials”), shall belong to the City. the Materials are a “work made for hire,” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a “work made for hire,” the Contractor hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark, and other intellectual property rights in perpetuity.

34. **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.

35. 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.

36. 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. Without limiting the generality of the foregoing, the Contractor's obligations for the provision of insurance, for indemnity to the City, for the return of real property, Supplies, and Equipment and Controlled Assets, and for preserving confidentiality of trade secrets and other information shall survive 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.

37. INUREMENT: The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this Agreement.

38. TIME IS OF THE ESSENCE: The parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

39. PARAGRAPH HEADINGS: The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

40. CITY EXECUTION OF AGREEMENT: This Agreement is expressly subject to, and shall not be or become effective or binding on the City until it has been approved by the Denver City Council and fully executed by the City and County of Denver.

41. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE: This Agreement consists of Paragraphs 1 through 42, which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Exhibit A	Scope of Work and Budget
Exhibit B	Certificate of Insurance
Exhibit C	Verification Affidavit

In the event of (i) an irreconcilable conflict between a provision of Paragraphs 1 through 42, and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Paragraphs	1 through 42 hereof
Exhibit A	Scope of Work and Budget
Exhibit B	Certificate of Insurance
Exhibit C	Verification Affidavit

42. COUNTERPARTS OF THE AGREEMENT: The Agreement may be executed in counterparts, each of which is an original and constitute the same instrument.

43. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

END

SIGNATURES PAGES AND EXHIBITS FOLLOW THIS PAGE

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EXHIBIT A	SCOPE OF WORK/BUDGET
EXHIBIT B	CERTIFICATE OF INSURANCE
EXHIBIT C	VERIFICATION AFFIDAVIT

Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By_____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By_____


By_____

By_____



Contract Control Number: SOCSV-201209022-00

Contractor Name: DENVER OPTIONS, INC. dba Rocky Mountain
Human Services

By: 

Name: Stephen R. Block
(please print)

Title: Chief Executive Officer
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Exhibit A

This exhibit A is effective as of January 1, 2013
Applicable to the First Renewal Term January 1, 2013 to December 31, 2013

Denver Options, Inc. dba Rocky Mountain Human Services – SOCSV 2012-09022
Developmental Disabilities Services for Denver Citizens
Supported by the 2013 Mill Levy Funds

The following is a description of the services and supports to individuals with developmental disabilities which are to be supported by the projected payment of \$10,989,504.00 in mill levy funding to Denver Options, Inc. which will conduct its business as Rocky Mountain Human Services during Calendar Year 2013. Actual expenditures may vary depending on the amount of dollars received. Targeted expenditures are subject to change as a result of an emergence of need and/or crisis faced by children and adults with developmental disabilities. Denver Options' management and/or Board of Directors will determine and periodically review the priorities to determine the most appropriate use of available funds. Furthermore, in accordance with the Agreement, section 5 C. Budget "Carry Forward," any unexpended funds may also be carried forward for administrative and programmatic expenditures in a subsequent renewal term.

- I. Community Centered Board Obligations Under Colorado Revised Statutes 27.10.5 the Community Centered Board (CCB) is responsible for determining eligibility of services, providing case management and providing specialized developmental disability services, either directly or through the CCB's choice to subcontract with approved service agencies and/or individual providers of services and supports.

A. State Match Requirements (Targeted Expenditure: \$1,340,000) With certain Adult and Children's programs, such as those described in sections II and III of this Exhibit, the State of Colorado has a statutory requirement that 5% of local funds match 95% of the funds received from the State. The 5% match total is approximately \$1,500,000 and is used to cover the gap in funding and costs associated with case management, care coordination and direct services to adults and children.

- II. Children and Family Services and Supports (Targeted Expenditure: \$5,128,200)

A. Early Intervention

Mill levy funds will be used assist in the expansion and ongoing delivery of children's programs of early intervention for infants and toddlers, generally, but not limited to ages 0 to 3. Assessments and early intervention services are provided in home settings, community settings with non-disabled peers, and center based clinics and facilities. The program includes community outreach for increasing referrals and identifying children who are eligible for services. Services may include training of parents in the use of therapeutic techniques to assist them in caring for and maintaining their child in their home. Additional examples of early intervention services include diagnostic and/or evaluative assessments, developmental monitoring, speech therapy, occupational therapy, physical therapy, and other therapeutic supports identified in a Child's Individualized Family Service Plan (IFSP). Whenever possible, the parents may select primary providers of their choice. All providers must meet qualification standards set by the federal government, state government and Denver Options,

Inc.

B. Family Support and Respite Care

The Family Service and Support Program (FSSP) is administered by Denver Options, Inc. with the oversight of a volunteer Family Support Council comprised of parent representatives and direct consumers of services. Mill levy funds may be used for an array of staff support, direct services, respite care, diagnostic and evaluative assessments, equipment, home modifications to enable a family to have their child live with them, and other services and supports that will allow the parents to care for their child at home and deter costly out-of-home placements and institutionalization.

C. Autism Services

According to the Centers for Disease Control and Prevention, the incidence of autism among infants and toddlers has become a pandemic. With 1 out of 85 children being born on the autism spectrum, the need for more diagnostic services for infants and toddlers with autism has become a critical need in Denver.

Denver Options plans to expand and develop further its autism services in the area of diagnostic clinical assessments, data collection and analyses, clinical and familial education and training, and specialized clinical and behavioral intervention services for children of all ages.

III. Adult Services and Supports (Targeted Expenditure: \$3,450,000)

A. Supported Living Day Program Services

Mill levy funds may support individuals with developmental disabilities in need of social and life skill development. Additionally, an array of services have been designed to help the person improve work-related skills and increase opportunities for community supported employment, participation in volunteer activities, and community integrated activities. Services may also be made available for non-work activities and/or services to retirees with developmental disabilities.

Interdisciplinary Teams also plan the use of public and private transportation services to and from residential settings, work places and program agencies. Emphasis in this area is to encourage use of public transportation, car pools and other integrated transportation services, where appropriate and available.

B. Comprehensive Residential Services

Mill levy funds may assist with the provision of residential services, such as (1) Host Home – a Home in which a person lives with a non-disabled individual or family; (2) Group Home – a congregate setting providing group care for four or more persons with disabilities into communities activities to increase natural family and friendship supports; (4) Intermediate Care Facility for Mentally Retarded (ICF/MR) – a group home setting for four or more individuals who meet nursing home guidelines established by the State of Colorado and/or the federal government through its Center for Medicaid Services.

Within the Day and Residential program areas there are specialized needs among individuals who are Medically Fragile or have other complex medical, physical, emotional and behavioral conditions and challenges. Mill levy funds may be used to support adults requiring dental care, wheelchairs, food and specialized diets, clothing, home modifications, ramps, nursing services, specialized bathrooms, home health services,

physical therapy, speech therapy, psychiatric care, psychological and behavioral assessments, services, support plans and outpatient consultation and services, eyeglasses, medications and medication administration, and durable medical equipment.

Colorado Statute CRS 27-10.5 mandates the community centered board to coordinate and monitor services and supports through the provision of Case Management. Mill levy funds may be used to support the delivery of case management services which enables individuals with developmental disabilities to obtain authorized services through: a determination of eligibility for such services; the development of an individual plan; the coordination of services of the plan; the purchasing of authorized services; the monitoring of all services delivered pursuant to the plan; the evaluation of service outcomes in relation to the goals and objectives in the plan; and the reassessment of the needs of the person receiving services with maximum participation of the person receiving services and the person's parents, guardians or authorized representatives, if appropriate.

C. Waitlist Services and Supports

Mill levy funds may support services directed to individuals on the adult services waiting list who require urgent attention. Also, the funds may be used to target services for young adults transitioning from school-age services to adult services and need specialized supports, thus allowing family members to maintain their jobs, and/or help young adults become productively employed if they are capable of working.

D. Emergency Response and Crisis Intervention

Mill levy funds may be used for temporary emergency residential placements for individuals with developmental disabilities who would otherwise be homeless. Residential emergency placement is also necessary in cases of psychiatric emergencies or when adult protection is necessary. In addition, funds may be earmarked for the Jumpstart Emergency Fund, which is a contingency fund of "last resort" to assist individuals with developmental disabilities and their families in acute emergencies when no other organization can intervene.

E. Monitoring, Investigations, & Human Rights

Mill levy funds will support the monitoring of provider services in order to ensure that individuals receiving services are safe. Monitoring also includes making certain that providers adhere to standards, rules and regulations. Additionally, the review of incident reports is a critical function for protecting health and safety of the individual in services. Investigations into the allegations of abuse and neglect of individuals with developmental disabilities are an important function for determining referrals to the Denver Police Department and Denver Human Services' Adult Protection Services. Denver Options' Human Rights Committee ensures that an individual's right suspensions are legitimate and in concert with State Rules and Regulations, and that psychotropic medications have been reviewed.

IV. Quality Assurances (Targeted Expenditure: \$1,071,304)

A. Evaluation of Developmental Disability Services

Mill levy funds will support periodic and annual surveys of satisfaction among individuals receiving Adult Services and Children's services. Additionally, families and guardians will be surveyed to determine their experience and satisfaction with services and supports. The results of the evaluations will be included in a quarterly and/or annual report of services.

Outcomes of surveys are also used for organizational and program service planning.

B. Community Outreach and Communications

Mill levy funds will support the development and distribution of informational materials, holding forums and other communication efforts designed to reach the Denver community for the purpose of informing and/or educating the public about the conditions of developmental disabilities, how to apply for services, and the types of services and supports that are offered through Denver Options, Inc. and its provider network.

C. Referral Network

Mill levy funds will be used to maintain and develop the data base and network of physicians, psychologists, and other therapists and providers that can refer their patients and clients to Denver Options, Inc. for eligibility determination and developmental disability services.

D. Call Center

Denver Options' call center's specialized equipment and skilled staff enhances customer service for individuals and families seeking emergency crisis intervention, eligibility determination, and targeting the referrals from physicians, clinics, hospitals, Denver Department of Human Services, and the Police Department, among other local community and state agencies. Call center data will be collected and integrated into Denver Options' information management system, electronic medical records, and compliance activities with HIPAA.

E. Training and Technical Assistance

Mill levy funds may be used to support the development and implementation of specialized training programs and technical assistance for maintaining and/or increasing knowledge, skills and abilities of employees of service agencies, Denver Options' staff, and other community providers of developmental disability services.

Additionally, forums and educational programs will be developed and delivered for families and guardians in need of information about service delivery options, such as, how to navigate the developmental disability service system, enrollment in Medicaid and Medicare, information about specific syndromes and how to be a caregiver, planning for the future, and other topics that will be determined by an advisory group of parents and guardians.

V. Administration

Administrative costs are inclusive of the amounts identified as target expenditures within this exhibit. Up to 15% of those targeted expenditures may include reasonable administrative cost actually incurred for the provision of services under this Agreement.

VI. Additional Requirements for 2013

- Denver Options, Inc. will provide a written report on a quarterly and annual basis and will distribute a copy to the manager of DDHS and will also post the report on its RMHS website. Here DHS would like to add that quarterly and annual reports go to the Manager of DDHS and also the utilization management administrator.

- Denver Options may be requested to assist in finding resources for DDHS youth with developmental disabilities or delays needing care, as well as the transitioning of young adults.
- Denver Options and DDHS will hold monthly meetings throughout 2013 unless the parties mutually agree to cancel a meeting. Meetings will address referrals and other services that can be a benefit for DDHS Clients.
- DHS requests the continued participation of Denver Options, Inc. in the Adult Protection Community Team and their membership in Denver's Forensic Collaborative for At Risk Adults effective January 2013.

ACORDTM**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

12/07/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER IMA, Inc. - Colorado Division 1550 17th Street, Suite 600 Denver, CO 80202 303-534-4567	CONTACT NAME: PHONE (A/C, No, Ext): 303-534-4567 FAX (A/C, No): 303-534-0600 E-MAIL ADDRESS: denpam@imacorp.com																					
INSURED Denver Options, Inc. dba: Rocky Mountain Human Services 9900 E Illiff Avenue Denver, CO 80231	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr> <tr> <td>INSURER A:</td><td>Philadelphia Indemnity Ins. Co.</td><td>18058</td></tr> <tr> <td>INSURER B:</td><td>Pinnacol Assurance</td><td>41190</td></tr> <tr> <td>INSURER C:</td><td></td><td></td></tr> <tr> <td>INSURER D:</td><td></td><td></td></tr> <tr> <td>INSURER E:</td><td></td><td></td></tr> <tr> <td>INSURER F:</td><td></td><td></td></tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Philadelphia Indemnity Ins. Co.	18058	INSURER B:	Pinnacol Assurance	41190	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER F:																						

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC			PHPK863719	05/15/2012	05/15/2013	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$20,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$3,000,000 PRODUCTS - COMP/OP AGG \$3,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			PHPK863719	05/15/2012	05/15/2013	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			PHUB381894	05/15/2012	05/15/2013	EACH OCCURRENCE \$6,000,000 AGGREGATE \$6,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	4115575	07/01/2012	07/01/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liab Abuse/Molestation			PHPK863719 \$3,000,000 Agg \$2,000,000 Agg	05/15/2012	05/15/2013	\$1,000,000 Per Occ \$1,000,000 Per Occ

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City and County of Denver, its elected and appointed officials, employees and volunteers are included as Additional Insureds on the General, Automobile, and Umbrella Liability Policies if required by written contract or agreement subject to the policy terms and conditions. This Insurance is Primary and Non Contributory on the General Liability Policy subject to the policy terms and conditions. A Waiver of Subrogation is provided in favor of Additional Insureds on the General, Automobile, Umbrella Liability and (See Attached Descriptions)

CERTIFICATE HOLDER**CANCELLATION**

City and County of Denver Denver Department of Human Services 1200 Federal Blvd, 4th Floor Denver, CO 80204	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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DESCRIPTIONS (Continued from Page 1)

Workers Compensation Policies if required by written contract or agreement subject to the policy terms and conditions.

EXHIBIT C

VERIFICATION AFFIDAVIT

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

_____ I am a United States citizen, or

_____ I am a Permanent Resident of the United States, or

_____ I am an alien lawfully present in the United States pursuant to Federal Law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that State law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute §18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date

Name of Applicant [Print]