

THIRD AMENDATORY AGREEMENT

Out-Of-Home Placement Services
Child Placement Agency Services (CPA)

THIS THIRD AMENDATORY AGREEMENT is between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **Ariel Clinical Services**, a Colorado nonprofit corporation doing business at 2938 North Avenue, Suite G, Grand Junction, Colorado 81504, Trails Number 90205, (“Contractor”), collectively “the parties”.

The City and the Contractor previously entered into an Agreement and two Amendatory Agreements to provide Child Placement Agency (CPA) services (the “Agreement”).

The parties now desire to further amend the Agreement to change the rates of reimbursement (following State changes, beginning July 1, 2014), to revise HIPAA/HITECH language, and to substitute revised attachments.

The parties agree as follows:

1. Paragraph 8 in General Provisions in Attachment A is amended to read:

“8. Prior agreements; modification of Attachment 1-3 (Scope of Work). This Agreement is in lieu of and supersedes all prior agreements between the parties and relating to the care and services here described. The parties may modify **Attachment 1-3** to increase or decrease the services contained therein or to adjust upward or downward specific line item expenses identified on **Attachment 1-3**; provided, however, that no modification to **Attachment 1-3** shall result in or be binding on the City if any proposed modification(s), individually or collectively, require(s) an expenditure of additional funds. The parties shall memorialize in writing any and all modifications to **Attachment 1-3** by revising and restating said **Attachment 1-3** and stating the date upon which the modified Attachment shall take effect. Any modification to **Attachment 1-3** 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 placed on file by the Agency with the City Clerk. Any modification to **Attachment 1-3** agreed to by the parties that requires an increase in the funds to be expended shall be evidenced by a written Amendatory Agreement prepared and executed by both parties in the same manner as this Agreement.”

2. Paragraph 9 in General Provisions in Attachment A is amended to read:

“9. Rate of Care. The Contractor agrees to provide the care and services which are described in this Agreement and its attachments, based on a child specific authorization, **Out-of-Home Placement Authorization**

and Terms (OOHPA) form, attached and incorporated as **Attachment 2**, identifying individual service needs completed by DDHS for each child being served by the Contractor. If this is a CPA (Child Protection Agency) placement, the rate will be based on the Child Specific Needs Based Care Assessment level for each child or on such other assessment instrument as determined by the parties to this agreement. The completed **Needs Based Care Assessment** will be in a format substantially similar to **Attachment 3**, attached and incorporated here. A rate of payment will be determined for each child according to the **Needs Based Care Rate Table** attached here as **Attachment 4-3** and incorporated here by reference. Exceptions may be made for children with extreme needs on a case by case basis with the approval of a Child Welfare Administrator or Executive Director. See Attachments 3 and 1-3 for this determination. For children placed in the “foster home” level of care, the Needs Based Care Assessment will be re-administered periodically to insure that it accurately reflects the current needs of the child.”

3. Paragraph 12 in General Provisions in Attachment A is amended to read:

“**12. Adoption.** If a foster child is being adopted by the CPA foster parent, administrative payment to the CPA will terminate on the date of the adoption. During the period preceding the adoption, the administrative rate may be reduced by the City consistent with the adoptive parent’s increasing independence from CPA services. The County and Provider agree that the provider reimbursement rates for children placed in a Concurrent Adoptive home shall be based on the **Needs Based Care Rates** in **Attachment 4-3**. This applies to Certified Foster Care homes once it is established that this placement is to be the child’s permanent (Adoptive) home. **Attachment 4-3** identifies when this rate is applied to situations where a child was initially placed only for the purpose of Foster Care. A determination that the placement is to be the permanent home is made based on the provider having completed and signed the **Foster Parent Declaration Form (Attachment 12-1)** and termination of parental rights has occurred rendering the child free and clear for adoption. The Needs Based Care Tool shall be utilized to determine the rates for all Adoptive placements. Administrative rates to Child Placement Agencies will not be affected and will continue to be determined by the Needs Based Care Tool (**Attachment 3**).”

4. Paragraph 16 in Description of Services to be Purchased in Attachment A is amended to read:

“**16.** The **amount paid** for purchased care and services for less than a full month will be based upon the daily rate contained in **Attachments 4-3 and 1-3.**”

5. Paragraph 17 in Description of Services to be Purchased in Attachment A is amended to read:

“17. The **services purchased** under this Agreement may include, but are not limited to basic 24 hour care and child maintenance (food, shelter, clothing, educational supplies, personal incidentals and allowance), administrative overhead, and case management. Behavioral health services which may include but are not limited to individual, group and family therapy, in home services and day treatment may be authorized and paid through the child’s Medicaid eligibility. Behavioral health services may also be authorized and purchased directly by the City through the Core Service program. The amount paid for purchased care and services must be in writing and will be based upon the negotiated rate. The total rate of payment for care and services under this Agreement shall not exceed the established negotiated rate as found in **Attachments 4-3 and 1-3** for preferred providers, network providers or group homes or centers.”

6. Paragraph 19 in Description of Services to be Purchased in Attachment A is amended to read:

“**19. Transportation** shall be furnished by City between the child’s residence and Contractor’s facility for the initial placement and return after the treatment plan is completed. (Emergency Placement is an exception and contractor will be responsible for transportation). During placement the Contractor shall provide or pay for reasonable fees associated with transportation as defined in **Attachment 1-3.**”

7. **Attachment 1-3**, Scope of Work for Child Placement Agency Contractor, shall be added to the Agreement effective July 1, 2014. It shall control the scope of work and rates from July 1, 2014 forward. All references to “...Attachment 1...” in the existing Agreement and attachments shall be amended to read: “...**Attachments 1, 1-1, 1-2, and 1-3**, as applicable....” **Attachment 1-3** is attached and incorporated by reference.

8. **Attachment 4-3**, Denver County Foster Care Rates shall be added to the Agreement effective July 1, 2014. It shall control the scope of work and rates from July 1, 2014 forward. All references to “...Attachment 4...” in the existing Agreement and attachments shall be amended to read: “...**Attachments 4, 4-1, 4-2, and 4-3**, as applicable....” **Attachment 4-3** is attached and incorporated by reference.

9. This Third Amendatory Agreement is not effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

10. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

Attachments 1-3 and 4-3

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 _____



Scope of Work for Child Placement Agency Contractor

I. Purpose of Agreement

The purpose of the contract is to establish an agreement and scope of services between Denver Department of Human Services (DDHS) and Contractor to provide Out-of-Home Placement Services for children and youth in the custody of the department.

II. Program Goals & Outcomes

Goal	Outcome
Goal #1 To improve client outcomes.	Improved outcomes for children and youth in placement and treatment services.
Goal #2 To develop partnerships to ensure appropriate placements, collaborative service planning and successful and meaningful coordination of care.	Improved matching of children with foster/group homes. Decreased likelihood of children re-entering same or higher level of care.
Goal #3 To improve communication between placement contractors and DHS staff.	Increase frequency of communication between contractor and DHS Utilization Management (UM) team.
Goals #4 To decrease length of time children spend in out-of-home placement.	Children returned home or placed with relatives more quickly.
Goal #5 To increase monitoring of contractor agreement.	Improved continuum of care for children and cost savings to Department.

III. Services

This agreement seeks to describe between DDHS and Contractor requirements, best practices, and other methods for providing a comprehensive framework of care as described here and in the Agreement.

- A.** In addition to any other services required by the Agreement and attachments, services will be provided based on a Child Specific Needs Based Care Assessment determined for each child (or, if necessary, on such other assessment instruments as determined by the parties to this Agreement).
 - 1.** The services purchased under this Agreement may include, but are not limited to:
 - a.** Basic 24-hour care and child maintenance (food, shelter, clothing, educational supplies, personal incidentals and allowance).
 - b.** Administrative overhead and case management.
 - c.** Behavioral health services which may include but are not limited to individual, group and family therapy. In-home services and day treatment may be authorized and paid through the child’s Medicaid eligibility. Behavioral health services may also be authorized and purchased directly by the City through the Department’s Core Service program.

B. Service Expectations

- 1. Treatment Plan:**
 - a.** At a minimum, the treatment plan shall be completed within the time frame allowed by the state.
 - b.** The treatment plan and services shall support the DDHS “permanency goal.”
 - c.** The treatment plan shall focus on the needs of the child and how the Contractor will actively engage in therapeutic resources to resolve behavioral, emotional and/or developmental difficulties the child may be experiencing.
 - d.** The treatment plan shall address any visitation needs for the child and his/her family members.
 - e.** Treatment plans shall be approved by DDHS staff and Probation, when involved.
- 2. Reporting:**
 - a.** No longer than three-month intervals after placement with the Contractor. Reports shall include, at a minimum, any changes to the child’s physical condition, psychological and social functioning, changes in the child’s family situation, educational progress, significant incidents or disciplinary actions, and progress made to achieve goals specified in the treatment plan. Additionally, reports shall include the name, address and phone number of the child’s current medical and dental providers and dates of appointments that occurred during the reporting period.
 - b.** Major incidents, including state defined “critical incidents” as well as incidents involving drug use, assaultive behaviors, major property damage, running away, and physical management shall be reported within one business day to DDHS U.M. staff and Probation, if involved. Any police contacts and court dates resulting from these contacts must be included in the report.
 - c.** Additional reporting requirements requested by DDHS shall be provided in progress reports within one month of notification by DDHS of the requirements.
- 3. Transportation:** The Contractor shall provide or pay for reasonable fees associated with transportation, e.g., a child’s family visitation, appearances in court, and interaction with other necessary services (such as medical visits or therapy). Note reimbursement would not apply when a DDHS staff or probation officer agrees to provide such transportation, although they shall not be required to provide such transportation.
- 4. Discharge Coordination:**
 - a.** Discharge plans for all children/youth shall be developed in cooperation with the child’s caseworker and an appropriate transition plan should be established.
 - b.** Children/youth shall leave placement with a sufficient quantity of any needed medications to cover until the child/youth is able to see a practitioner who may prescribe the medications in the subsequent placement.
 - c.** Children/youth shall leave placement with a sufficient amount of clothing and possessions including all possessions with which they entered the placement. Items that have been lost or stolen should be timely documented and reported to the child’s assigned caseworker.

- 5. Value Of Individual & Community Engagement Services (VOICES) Meetings:**
 - a.** Child Placement Agencies shall give 30 days' notice in writing to the child or youth's assigned Utilization Management Coordinator when requesting that a child or youth be moved from one of their foster homes with the exception of emergency removals.
 - b.** The Department is required to schedule a VOICES Meeting within five working days of receipt of this notice.
 - c.** The appropriate CPA staff person and the foster parent are expected to participate in the VOICES meeting either in person or by telephone.

IV. Background Checks

Contractor shall provide background checks for all current and prospective employees of Contractor, and/or any subcontractor who has any direct contact with a child involved in any phase of an open child welfare case including, without limitation, those in the process of being placed and those who have been placed in out-of-home care. Each employee, prospective employee and/or subcontractor shall submit a complete set of fingerprints to the Colorado Bureau of Investigation (CBI) that were taken by a qualified law enforcement agency to obtain any criminal record held by the CBI.

A. Contractor Employees and Subcontractors

- 1.** The person's employment is conditional upon a satisfactory criminal background check and subject to the same grounds for denial or dismissal as outlined in 26-6-104(7), C.R.S., including:
 - a.** Checking records and reports; and
 - b.** Individuals who have not resided in the state for two years shall be required to have Federal Bureau of Investigation (FBI) fingerprint-based criminal history.
- 2.** Payment of the fee for the criminal record check is the responsibility of the Contractor or at Contractor's option individual being checked. In either case, DHS will not reimburse any of the costs associated with background checks.

B. Volunteers and Students

- 1.** If volunteers or students are used by Contractor, Contractor shall define specifically the services to be given by that individual.
- 2.** Volunteers and students who are assigned to work directly with the children shall:
 - a.** Be subject to reference checks similar to those performed for employment applicants.
 - b.** Be in good general health. City & Provider have the right to contact the individual's physician.
 - c.** Volunteers and students shall be:
- 3.** Directly supervised by Contractor's paid and qualified staff member who shall be present at all times when the volunteer or student is working directly with or having direct contact with any child or children.
- 4.** Oriented and trained in the culture of the Family to Family site, confidential nature of their work, and the specific job which they are to do, prior to assignment.

Provisions for employment and volunteer/student related background check inquiries will be followed as outlined in Section 7.701.32 "Use of Reports and Records of Child Abuse or Neglect for Background and Employment Inquiries."

V. Performance Management and Reporting

A. Performance Management

Monitoring will be performed by the program area and Contracting Services. Contractor may be reviewed for:

- 1. Program or Managerial Monitoring:** The quality of the services being provided and the effectiveness of those services addressing the needs of the program.
- 2. Contract & Financial Monitoring:** Review and analysis of (a) current program information to determine the extent to which contractors are achieving established contractual goals; (b) financial systems & billings to ensure that contract funds are allocated & expended in accordance with the terms of the Agreement. Contracting Services will provide regular performance monitoring and reporting to program area management. Contracting Services, in conjunction with the DHS program area, will manage any performance issues and will develop interventions that will resolve concerns.
- 3. Compliance Monitoring:** Monitoring to ensure that the requirements of the contract document, Federal, State and City codes, laws and regulations, and DHS policies are being met.

B. Reporting

The following reports shall be developed and delivered to the City as stated in this section.

Report # and Name	Description	Frequency
1. All medical and dental reports (Denver Human Services Health Visit Report)	Completed DHS Health Visit Report or documentation from alternative provider of physicals, medical and dental procedures.	Within one (1) business day of medical/dental appointment or of receipt of documentation.
2. Major incidents, including state defined "critical incidents" Reports	Report shall demonstrate information as stated above in Section III.B.2.b	Within one (1) business day of incident.
3. Quarterly Report	Report shall demonstrate achievement of the Goals of this SOW.	Quarterly
4. Contract Closeout and Summary Report	Report shall demonstrate all functions performed, and how services provided met the overall goals of this Agreement.	Contract End, within 45 days after placement end date.
5. Other reports as reasonably requested by the City.	To be determined (TBD) – ie. Child Safety Plan, Foster Home Action Plan, etc.	TBD

VI. Budget Requirements

Contractor shall provide the services for the City under this agreement using best practices. Only State funds will be used to pay for care and services. Applicable rates shall be determined as set forth in the Agreement and Attachment 4-3, which were effective on 7/1/2014.

The rates in Attachment 4-3, which were effective on 7/1/2014, are the established rates which have been determined to be sufficient to meet the usual needs of children and youth in out of home placement. Those rates may only be supplemented by an additional payment on a finding by DHS based on documentary evidence of one or more of the following factors: excessive needs of crossover population (D & N plus Delinquency requirements), need for higher levels of supervision (such as line-of-sight supervision for offense-specific population), severe mental illness, excessive transportation needs, excessive developmental or physical limitations, severely medically fragile population, DYC proctor bed rates, mutual care program rates, placement rates for victims of trafficking, or court order.

VII. Business Associate Terms – HIPAA/HITECH

1. GENERAL PROVISIONS AND RECITALS

1.01 The parties agree that the terms used, but not otherwise defined below, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they exist or may hereafter be amended.

1.02 The parties agree that a business associate relationship (as described in 45 CFR §160.103) under HIPAA, the HITECH Act, and the HIPAA regulations arises between the CONTRACTOR and CITY to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of CITY.

1.03 CITY wishes to disclose to CONTRACTOR certain information, some of which may constitute Protected Health Information ("PHI") as defined below, to be used or disclosed in the course of providing services and activities.

1.04 The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they exist or may hereafter be amended.

1.05 The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that impose more stringent requirements with respect to privacy of PHI.

1.06 The parties understand that the HIPAA Privacy and Security rules apply to the CONTRACTOR in the same manner as they apply to a covered entity. CONTRACTOR agrees to comply at all times with the terms of this Agreement and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they exist or may hereafter be amended, with respect to PHI.

2. DEFINITIONS.

2.01 "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of that information.

2.02 "Agreement" means the attached Agreement and its exhibits to which this these terms additional are incorporated by reference.

2.03 "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

2.03.1 Breach excludes:

- a. any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or CITY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
- b. any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI, or organized health care arrangement in which CITY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner disallowed under the HIPAA Privacy Rule.
- c. a disclosure of PHI where CONTRACTOR or CITY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

2.03.2 Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b. The unauthorized person who used the PHI or to whom the disclosure was made;
- c. Whether the PHI was actually acquired or viewed; and
- d. The extent to which the risk to the PHI has been mitigated.

2.04 "CONTRACTOR" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

2.05 "CITY" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

2.06 "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.07 "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.08 "Disclosure" shall have the meaning given to such term under the HIPAA

regulations in 45 CFR §160.103.

2.09 "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.10 "Immediately" where used here shall mean within 24 hours of discovery.

2.11 "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

2.12 "Parties" shall mean "CONTRACTOR" and "CITY", collectively.

2.13 "Physical Safeguards" are physical measures, policies, and procedures to protect CONTRACTOR's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

2.14 "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

2.15 "Protected Health Information" or "PHI" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.16 "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule at 45 CFR §164.103.

2.17 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

2.18 "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.

2.19 "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

2.20 "Subcontractor" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.21 "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.

2.22 "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services ("HHS") in the guidance issued on the HHS Web site.

2.23 "Use" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

3. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE.

3.01 CONTRACTOR agrees not to use or further disclose PHI that CITY discloses to CONTRACTOR except as permitted or required by this Agreement or by law.

3.02 CONTRACTOR agrees to use appropriate safeguards, as provided for in this Agreement, to prevent use or disclosure of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY, except as provided for by this Contract.

3.03 CONTRACTOR agrees to comply with the HIPAA Security Rule, at Subpart C of 45 CFR Part 164, with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY.

3.04 CONTRACTOR agrees to mitigate, to the extent practicable, any harmful

effect of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of this Agreement that becomes known to CONTRACTOR.

3.05 CONTRACTOR agrees to immediately report to CITY any Use or Disclosure of PHI not provided for by this Agreement that CONTRACTOR becomes aware of. CONTRACTOR must report Breaches of Unsecured PHI in accordance with 45 CFR §164.410.

3.06 CONTRACTOR agrees to ensure that any subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such information.

3.07 To comply with the requirements of 45 CFR §164.524, CONTRACTOR agrees to provide access to CITY, or to an individual as directed by CITY, to PHI in a Designated Record Set within fifteen (15) calendar days of receipt of a written request by CITY.

3.08 CONTRACTOR agrees to make amendment(s) to PHI in a Designated Record Set that CITY directs or agrees to, pursuant to 45 CFR §164.526, at the request of CITY or an Individual, within thirty (30) calendar days of receipt of the request by CITY. CONTRACTOR agrees to notify CITY in writing no later than ten (10) calendar days after the amendment is completed.

3.09 CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of CITY, available to CITY and the Secretary in a time and manner as determined by CITY, or as designated by the Secretary, for purposes of the Secretary determining CITY'S compliance with the HIPAA Privacy Rule.

3.10 CONTRACTOR agrees to document any Disclosures of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY, and to make information related to such Disclosures available as would be required for CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.11 CONTRACTOR agrees to provide CITY, or an Individual as directed by CITY, and in a timely and manner to be determined by CITY, that information collected in accordance with the Agreement, in order to permit CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.12 CONTRACTOR agrees that, to the extent CONTRACTOR carries out CITY's obligation(s) under the HIPAA Privacy and/or Security rules, CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to CITY in the performance of such obligation(s).

3.13 CONTRACTOR shall work with CITY upon notification by CONTRACTOR to CITY of a Breach to properly determine if any Breach exclusions exist as defined below.

4. SECURITY RULE.

4.01 CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR §164.308, §164.310, §164.312, and §164.316 with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY. CONTRACTOR shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

4.02 CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of CONTRACTOR agree through a

contract with CONTRACTOR to the same restrictions and requirements contained here.

4.03 CONTRACTOR shall immediately report to CITY any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI as below and as required by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

5.01 Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify CITY of such Breach, however, both parties may agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR §164.412.

5.01.1 A Breach shall be treated as discovered by CONTRACTOR as of the first day on which such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known to CONTRACTOR.

5.01.2 CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

5.02 CONTRACTOR shall provide the notification of the Breach immediately to the CITY DHS Executive Director or other designee.

5.02.1 CONTRACTOR'S initial notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

5.03 CONTRACTOR'S notification shall include, to the extent possible:

5.03.1 The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

5.03.2 Any other information that CITY is required to include in the notification to each Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify CITY, or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR §164.410 (b) has elapsed, including:

- a. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
- b. A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- c. Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
- d. A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
- e. Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or

postal address.

5.04 CITY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR §164.404, if at the sole discretion of the CITY, it is reasonable to do so under the circumstances.

5.05 In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all required notifications to CITY, and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

5.06 CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR §164.402 to demonstrate that a Breach did not occur.

5.07 CONTRACTOR shall provide to CITY all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit CITY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to CITY.

5.08 CONTRACTOR shall continue to provide all additional pertinent information about the Breach to CITY as it becomes available, in reporting increments of five (5) business days after the prior report to CITY. CONTRACTOR shall also respond in good faith to all reasonable requests for further information, or follow-up information, after report to CITY, when such request is made by CITY.

5.09 In addition to the provisions in the body of the Agreement, CONTRACTOR shall also bear all expense or other costs associated with the Breach and shall reimburse CITY for all expenses CITY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs or expenses associated with addressing the Breach.

6. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

6.01 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, CITY as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by CITY.

6.02 CONTRACTOR may use PHI that CITY discloses to CONTRACTOR, if necessary, for the proper management and administration of the Agreement.

6.03 CONTRACTOR may disclose PHI that CITY discloses to CONTRACTOR to carry out the legal responsibilities of CONTRACTOR, if:

6.03.1 The Disclosure is required by law; or

6.03.2 CONTRACTOR obtains reasonable assurances from the person or entity to whom/which the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person or entity and the person or entity immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.

6.04 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

6.05 CONTRACTOR may use and disclose PHI that CITY discloses to CONTRACTOR consistent with the minimum necessary policies and procedures of CITY.

7. OBLIGATIONS OF CITY.

7.01 CITY shall notify CONTRACTOR of any limitation(s) in CITY'S notice of privacy practices in accordance with 45 CFR §164.520, to the extent that such limitation may affect CONTRACTOR'S Use or Disclosure of PHI.

7.02 CITY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR'S Use or Disclosure of PHI.

7.03 CITY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that CITY has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of PHI.

7.04 CITY shall not request CONTRACTOR to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by CITY.

8. BUSINESS ASSOCIATE TERMINATION.

8.01 Upon CITY'S knowledge of a material breach or violation by CONTRACTOR of the requirements of this Contract, CITY shall:

8.01.1 Provide an opportunity for CONTRACTOR to cure the material breach or end the violation within thirty (30) business days; or

8.01.2 Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Agreement is feasible.

8.02 Upon termination of the Agreement, CONTRACTOR shall either destroy or return to CITY all PHI CONTRACTOR received from CITY and any and all PHI that CONTRACTOR created, maintained, or received on behalf of CITY in conformity with the HIPAA Privacy Rule.

8.02.1 This provision shall apply to all PHI that is in the possession of subcontractors or agents of CONTRACTOR.

8.02.2 CONTRACTOR shall retain no copies of the PHI.

8.02.3 In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to CITY notification of the conditions that make return or destruction infeasible. Upon determination by CITY that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Agreement to the PHI and limit further Uses and Disclosures of the PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains the PHI.

8.03 The obligations of this Agreement shall survive the termination of the Agreement.

AGE 0-10

Level of Care	Child Maintenance	Admin Maintenance	Admin Services	Foster Care Respite	Total
0	\$17.66			\$.66	\$18.32
1	\$20.34	\$14.06	\$.01	\$.66	\$35.07
1 ½	\$23.84	\$15.72	\$.01	\$.66	\$40.23
2	\$27.34	\$17.38	\$.01	\$.66	\$45.39
2 ½	\$30.84	\$19.05	\$.01	\$.66	\$50.56
3	\$34.36	\$20.72	\$.01	\$.66	\$55.75
3 ½	\$38.54	\$22.40	\$.01	\$.66	\$61.61
4 (TRCCF Stepdown @ county discretion)	\$42.06	\$24.05	\$.01	\$.66	\$66.78
Assessment Rate (60 days)	\$26.92	\$15.85	\$.01	\$.66	\$43.44

AGE 11-14

Level of Care	Child Maintenance	Admin Maintenance	Admin Services	Foster Care Respite	Total
0	\$19.20			\$.66	\$19.86
1	\$21.89	\$14.06	\$.01	\$.66	\$36.62
1 ½	\$25.39	\$15.72	\$.01	\$.66	\$41.78
2	\$28.88	\$17.38	\$.01	\$.66	\$46.93
2 ½	\$32.39	\$19.05	\$.01	\$.66	\$52.11
3	\$35.90	\$20.72	\$.01	\$.66	\$57.29
3 ½	\$40.09	\$22.40	\$.01	\$.66	\$63.16
4 (TRCCF Stepdown @ county discretion)	\$43.61	\$24.05	\$.01	\$.66	\$68.33
Assessment Rate (60 days)	\$26.92	\$15.85	\$.01	\$.66	\$43.44

AGE 15-18

Level of Care	Child Maintenance	Admin Maintenance	Admin Services	Foster Care Respite	Total
0	\$20.32			\$.66	\$20.98
1	\$23.01	\$14.06	\$.01	\$.66	\$37.74
1 ½	\$26.51	\$15.72	\$.01	\$.66	\$42.90
2	\$30.00	\$17.38	\$.01	\$.66	\$48.05
2 ½	\$33.52	\$19.05	\$.01	\$.66	\$53.24
3	\$37.01	\$20.72	\$.01	\$.66	\$58.40
3 ½	\$41.21	\$22.40	\$.01	\$.66	\$64.28
4 (TRCCF Stepdown @ county discretion)	\$44.72	\$24.05	\$.01	\$.66	\$69.44
Assessment Rate (60 days)	\$26.92	\$15.85	\$.01	\$.66	\$43.44