

AGREEMENT

THIS AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", and **ABILITY CONNECTION COLORADO, INC.**, a non-profit corporation, with an address of 801 Yosemite Street, Denver, CO 80230 (the "Contractor"), jointly "the parties".

The parties agree as follows:

1. DEFINITIONS: The capitalized terms used in this Agreement and any and all exhibits hereto, will have the meanings given such terms in the paragraph in which such terms are parenthetically defined. The meanings given to terms defined will be equally applicable to the singular and plural forms of such terms. In addition, the following capitalized terms shall have the following meanings:

A. "City" means the City and County of Denver or a person authorized to act on its behalf.

B. "Subcontractor" means an entity, other than a Contractor, that furnished or furnishes to the City or the Contractor services or supplies (other than standard office supplies, office space or printing services) pursuant to this Agreement.

C. "Federal Government" shall include representatives of the agency, department or office of the United States of America which is or may hereafter be empowered to promulgate, review or enforce rules governing the expenditure of Federal Funds which are or may hereafter become obligated under this Agreement.

D. "Federal Funds" means an award or appropriation of monies from the Federal Government for purposes of administering the Program.

E. "Federal Law" shall include any laws of the United States of America which govern funds which are or may after become obligated under this Agreement. Federal Law may include, but is not limited to, federal laws set forth in Article 23 of this Agreement, as well as any and all amendments thereto which may currently or hereafter be in effect.

F. "Program" shall mean any and all authorized services and activities necessary to administer the Agency's responsibilities under the Workforce Innovation and Opportunity Act, ("WIOA"), Public Law 113-129 (July 22, 2014), 29 U.S.C. 3101, *et seq.*, (WIOA Adult CFDA NO. 17.258, WIOA Dislocated Worker CFDA NO. 17.260, WIOA Youth 17.259), which supersedes the Workforce Investment Act 1998, Public Law 105-220, as codified at, 29 U.S.C. §2801, *et seq.*, ("WIA"). For purposes of implementing the Program, the Contractor is a Subrecipient.

G. "State Government" shall include representatives of the agency, department or office of the State of Colorado which is or may hereafter be empowered to promulgate, review or enforce rules governing the Program.

H. "State Law" shall include any laws of the State of Colorado which govern funds which are or may become obligated under this Agreement. State Law includes, but is not limited to, the state laws set forth in Article 23 of this Agreement, as well as amendments thereto which may currently or hereafter be in effect.

2. TERM: The Agreement will commence on June 1, 2019, and will expire on June 30, 2020 (the "Term"). Subject to the Director's prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term will extend until the work is completed or earlier terminated by the Director.

3. COORDINATION AND LIAISON: The Contractor will fully coordinate all services under the Agreement with the Director of Workforce Development, Office of Economic Development (the "Director" and the "Agency" respectively), or the Director's Designee.

4. SERVICES TO BE PROVIDED:

A. At the direction of the Director, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A, the Contractor's Work Statement (the "Services")**, to the City's satisfaction.

B. The Contractor is ready, willing, and able to provide the services required by this Agreement.

C. 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.

5. COMPENSATION AND METHOD OF PAYMENT:

A. Budget: The City shall pay and the Contractor shall accept as the sole compensation for services rendered and costs incurred under the Agreement in accordance with the budget contained in **Exhibit B**. The Contractor certifies the budget line items in **Exhibit B** contains reasonable allowable direct costs and allocable indirect costs in accordance with 2 C.F.R. 200, Subpart E.

B. Reimbursable Expenses: Except as set forth on **Exhibit B**, there are no reimbursable expenses allowed under the Agreement.

C. Invoices.

(1) Contractor shall provide the City with periodic invoices in a format and with a level of detail acceptable to the City in accordance with **Exhibit B**. Contractor's invoices must identify reasonable allowable direct costs and allocable indirect costs actually incurred in accordance with the budgeted categories and amounts contained in **Exhibit B**. The amounts invoiced by Contractor will be payable upon receipt and acceptance of designated work product as set forth herein and as fully documented by Contractor's periodic invoice. Funds payable by the City hereunder shall be distributed to the Contractor on a reimbursement basis only, for work performed during the prior month. Invoices submitted for services rendered that are submitted after such deadline are considered to be untimely, and must be submitted separately to be considered for payment. Payment for such late-submitted invoices shall be made only upon a showing of good cause for the late submission. Contractor's invoices will set forth the methodology used to determine costs for services invoiced. The City will have the right to dispute, and withhold payment for, any invoice that does not contain a sufficient statement of Contractor's methodology used to determine costs for services invoiced.

(2) Contractor must not allocate costs billed to this Agreement to another Federal award unless the City notifies the Contractor in writing that that the City has shifted costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of an applicable Federal award. 2 C.F.R. 200.405(c).

(3) Each invoice requesting payment under this Agreement will contain the following certification, signed by an official who is authorized to legally bind the Contractor, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that this invoice is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of an applicable Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

D. Budget modifications: Budget line items may only be modified by the written approval of the Director or the Director's designee, if in the sole judgment of the Director or the Director's designee such modification is reasonable and appropriate. However, such budget modifications will not alter the Maximum Contract Amount. Any modification to **Exhibit A or Exhibit B** shall not take effect until approved in writing. Any modification to **Exhibit A and/or B** agreed to by the parties that requires an increase in the Maximum Contract Amount shall be evidenced by a written Amendatory Agreement prepared and executed by both parties in the same manner as this Agreement.

E. Maximum Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **Seven Hundred Twenty-Five Thousand Dollars and Zero Cents (\$725,000.00) (the "Maximum Contract Amount")**. The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Contractor's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to Federal Funds received and budgeted for the Program, appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance 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.

F. Recovery of incorrect payments: The City has the right to recover from the Contractor any and all incorrect payments issued to the Contractor due to any omission, error, fraud, and/or defalcation including but not limited to applying a deduction from subsequent payments under this Agreement or other means of recovery by the City as a debt due to the City or otherwise as provided by law. If, as a result of any audit or program review relating to the performance of the Contractor or its officers, agents or employees under this Agreement, there are any irregularities or deficiencies in any audit or review, then the Contractor will, upon notice from the City, correct all identified irregularities or deficiencies within the time frames designated in the City's written notice. If corrections are not made by such date, then the final resolution of identified deficiencies or disputes shall be deemed to be resolved in the City's favor unless the Contractor obtains a resolution in its favor from the responsible official conducting the audit or review. The foregoing in no way limits Contractor's obligation to reimburse the City for any costs or expenses paid under this Agreement that have been determined to be unallowable or disallowed by the Federal Government, State Government, or the City in accordance with applicable Federal Laws, State Laws, or the Charter, ordinances, rules, regulations, policies, and Executive Orders of the City and County of Denver.

G. Additional Program Conditions: If additional conditions are lawfully imposed on the Program and the City by the federal, state, or local law, executive order, rules and regulations, or other written policy instrument, the Contractor will comply with all such additional conditions. If the Contractor is unable or unwilling to accept any such additional conditions concerning the administration of the Program, the City may withhold payment to the Contractor of any unearned funds. If the City withholds payment for this reason, the City shall advise the Contractor and specify the actions that must be taken as a condition precedent to the resumption of payments.

H. Return of unexpended funds: In the event the City determines that the Contractor possesses an unexpended balance of funds from any advance payments made to the

Contractor, then all such unexpended advanced funds will be returned to the City within ten (10) days written notice to the Contractor. The City's acceptance of any such amounts shall not constitute a waiver of any claim that the City may otherwise have arising out of this Agreement.

I. Federal Funds contingency: All payments under this Agreement, whether in whole or in part, are subject to and contingent upon the continuing availability of Federal Funds for the purposes of the Program. In the event that Federal Funds, or any part thereof, are not awarded to the City or are reduced or eliminated by the Federal Government or the State of Colorado, the City may reduce the total amount of compensation to be paid to the Contractor by revising **Exhibits A and B** or it may terminate this Agreement.

J. No duplication of funds for same services: The monies provided for and received under this Agreement are the only and sole funds received by the Contractor from or through the City and County of Denver for payment of the Services provided under this Agreement. In the event the Contractor shall receive any other monies from or through the City or any other party in order to provide the Services, then the compensation received hereunder may be reduced by such amount or amounts at the sole option of the City. The Contractor shall report promptly, in writing to the Director, all amounts received upon receipt.

6. EMPLOYMENT WITH FUNDS: In connection with the performance of work under this Agreement, the Contractor shall submit pertinent job availability information on each job or position created with the use of the funds provided hereunder to the City's Office of Economic Development in the workforce job system, www.connectingcolorado.com or other system as may be required.

7. STATUS OF CONTRACTOR: 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.

8. ENFORCEMENT REMEDIES/TERMINATION OF AGREEMENT: The City has the following rights of enforcement and termination:

A. Enforcement Remedies. If the Contractor materially fails to comply with the terms of this Agreement, the terms of any other agreement between the City and the Contractor, or any federal statute, rule, regulation, or terms and conditions of a Federal award, and fails to cure such noncompliance within ten (10) days (or such longer period as the City may allow) after receipt from the City of a notice specifying the noncompliance, the City may take one or more of the following enforcement actions:

(1) Withhold any or all payments to the Contractor, in whole or in part, until the necessary services, deliverables, or corrections in performance are satisfactorily completed during the authorized period to cure default;

(2) Deny any and all requests for payment and/or demand reimbursement from Contractor of any and all payments previously made to Contractor for those services or deliverables that have not been satisfactorily performed and which, due to circumstances caused by or within the control of the Contractor, cannot be performed or if performed would be of no value to the Program. Denial of requests for payment and demands for reimbursement shall be reasonably related to the amount of work or deliverables lost to the City;

(3) Disallow or deny all or part of the cost of the activity or action not in compliance.

(4) Suspend or terminate this Agreement, or any portion or portions thereof, effective immediately or (or such longer period as the City may allow) upon written notice to Contractor;

(5) Deny in whole or in part any application or proposal from Contractor for funding of the Program for a subsequent program year regardless of source of funds;

(6) Reduce any application or proposal from Contractor for refunding for the Program for a subsequent program year by any percentage or amount that is less than the total amount of compensation provided in this Agreement regardless of source of funds;

(7) Refuse to award Contractor, in whole or in part, any and all additional funds for expanded or additional services under the Program;

(8) Deny or modify any future awards, grants, or contracts of any nature by the City regardless of funding source for Contractor; or

(9) Modify, suspend, remove, or terminate the Services, in whole or in part. If the Services, or any portion thereof, are modified, suspended, removed, or terminated, the Contractor shall cooperate with the City in the transfer of the Services as reasonably designated by the City.

(10) Take other remedies that may be legally available.

B. Termination due to criminal offenses. The City may terminate the Agreement if the 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 subarticle is effective upon receipt of notice.

C. Termination for convenience. The City has the right to terminate the Agreement without cause upon twenty (20) days prior written notice to the Contractor. However, nothing in this Article shall be construed as giving the Contractor the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the Director.

D. Termination for delinquent loans, contract obligations, and taxes.

Further, the City may also suspend or terminate this Contract, in whole or in part, if Contractor becomes delinquent on any obligation to the City inclusive of any loan, contractual, and tax obligation as due, or with any rule, regulations, or provisions referred to herein; and the City may declare the Contractor ineligible for any further participation in City funding, in addition to other remedies as provided by law. In the event there is probable cause to believe the Contractor is non-compliant with any applicable rules, laws, regulations, or Contract terms, the City may withhold up to one hundred (100) percent of said Contract funds until such time as the Contractor is found to be in compliance by the City or is otherwise adjudicated to be in compliance, or to exercise the City's rights under any security interest arising hereunder.

E. Payment upon termination.

Upon termination of the Agreement, upon any ground, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation that has not been disallowed by the City for work duly requested and satisfactorily performed or deliverables satisfactorily provided as described in the Agreement.

F. Return of materials and equipment.

If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

9. REQUIRED BACKGROUND CHECKS: The Contractor shall cooperate and comply with the City's Office of Economic Development's "Background Checks Concerning Placement of Youth Participants Policy" for programs or services provided to youth under age 18.

10. EXAMINATION OF RECORDS/AUDIT REQUIREMENTS:

A.

Any authorized representative of the City, including the City Auditor or his or her representative, the State of Colorado, or the federal government will have the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to the Agreement until the latter of six (6) years after the final payment under the Agreement or expiration of the applicable statute of limitations whichever is longer. This right of access also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents.

B.

The Contractor will keep true and complete records of all business transactions under this Agreement, will establish and maintain a system of bookkeeping satisfactory to the City's Auditor and give the City's authorized representatives access during reasonable hours to such books and records, except those matters required to be kept confidential by law. The Contractor agrees that it will keep and preserve for at least six (6) years all evidence of business transacted under this Agreement for such period.

C. The Contractor acknowledges that it is subject to any and all applicable regulations or guidance of the United States Office of Management and Budget including, but not limited to, all applicable laws, rules, regulations, policy statements, and guidance issued by the Federal Government (including the United States Office of Management and Budget), regarding audit requirements and access to records requirements. Non-profit organizations that expend \$750,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225 and 230, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (the “OMB Omni Circular”) and applicable federal regulations.

11. 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.

12. INSURANCE:

A. If the Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as amended (“Act”), the Contractor shall maintain insurance, by commercial policy or self-insurance, as is necessary to meet the Contractor’s liabilities under the Act. Proof of such insurance shall be provided upon request by the City.

B. If the Contractor is not a “public entity” then, the following general conditions apply:

(1) **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-”VIII or better. Each policy shall contain a valid provision or endorsement 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 insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

(2) **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit E**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

(3) **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

(4) **Waiver of Subrogation:** For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.

(5) **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

(6) **Workers' Compensation/Employer's Liability Insurance:** For Contractor's officers and employees, 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.

For each program participant or person otherwise receiving services under this Agreement including without limitation paid or unpaid work experience, Contractor shall either: a) itself obtain and maintain Employer's Liability coverage; or b) ensure each employer providing paid or unpaid work experience has obtained and will maintain Employer's Liability coverage. In either case, Employer's Liability coverage will be provided for each program participant or individual receiving work experience under this Agreement and for each work location 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 such Workers' Compensation Insurance has been or will be obtained for each program participant or person otherwise receiving services under this Agreement prior to the commencement of paid or unpaid work experience.

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

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

(9) **Professional Liability.** Contractor shall maintain professional liability limits of \$1,000,000,000 per claim and \$1,000,000.00 aggregate policy limit.

(10) **Cyber Liability:** Contractor shall maintain Cyber Liability coverage with limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

(11) **Additional Provisions:**

- (a) For Commercial General Liability, the policies must provide the following:
 - (i) That this Agreement is an Insured Contract under the policy;

- (ii) Defense costs are outside the limits of liability;
 - (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City; and
 - (v) Any exclusion for sexual abuse, molestation or misconduct has been removed or deleted.
- (b) For claims-made coverage:
- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
- (c) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At its 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.

13. 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.

14. TAXES, LATE CHARGES, AND PERMITS: 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 D.R.M.C. § 20-107, *et seq.* The Contractor shall promptly pay when due, all taxes, 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.

15. ASSIGNMENT AND SUBCONTRACTING: The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations under the Agreement or subcontract performance obligations without obtaining the Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The Director 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.

Services subcontracted under this Agreement shall be specified by written agreement and shall be subject to each applicable provision of this Agreement and any and all applicable Federal and State Laws with appropriate changes in nomenclature in referring to such subcontract. The Contractor shall submit proposed subcontract agreements to the Director for the Director's review and approval. Such consent of the City obtained as required by this Article shall not be construed to constitute a determination of approval of any cost under this Agreement, unless such approval specifically provides that it also constitutes a determination of approval of such cost.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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; and the Contractor shall not hire, or contract for services with, any employee or officer of the City 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 which 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. The Contractor will have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

21. 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:

Director of Workforce Development or Designee
Office of Economic Development
City and County of Denver
201 West Colfax Avenue, Dept. 1011
Denver, CO 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

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.

22. DISPUTES: All disputes between the City and the Contractor arising out of or regarding this Agreement will be resolved by administrative hearing 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 Director as defined in this Agreement.

23. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations, and codes of the United States, State of Colorado, and with the Charter, ordinances, regulations, policies, and Executive Orders of the City and County of Denver whether or not specifically referenced herein. Any references to specific federal, state, or local laws or other requirements incorporated into this Agreement are not intended to constitute an exhaustive list of federal, state, and City requirements applicable to this Agreement. Applicable statutes, regulations and other documents pertaining to administration or enforcement of the services referenced in this Agreement and all other applicable provisions of federal, state or local law are deemed to be incorporated herein by reference. Compliance with all such statutes, regulations and other documents is the responsibility of the Contractor. Contractor shall ensure that any and all Subcontractors also comply with applicable laws. In particular, and not by way of limitation, the services shall be performed in strict compliance with all laws, executive orders, ordinances, rules, regulations, policies and procedures prescribed by the City, the State of Colorado, and the United States Government, and the following additional federal requirements:

A. The Workforce Innovation and Opportunity Act, ("WIOA"), Public Law 113-129 (enacted July 22, 2014 and effective July 1, 2015), 29 U.S.C. 3101, *et seq.*, which

supersedes the Workforce Investment Act (WIA) and amends the Adult Education and Family Literacy Act; the Wagner-Peyser Act of 1933, as amended; and the Rehabilitation Act of 1973;

B. Any and all applicable federal, state, or City rules and regulations relevant to the administration of the Program including but not limited to, 20 C.F.R. Parts 603, 675, 679, 681, and 683; 29 CFR Parts 31, 32, 33, 35, 38, 95, 96, 97, and 99; and 34 C.F.R. Part 361;

C. The terms and conditions contained in an Exhibit to this Agreement unless the City notifies the contractor in writing that a specific requirement does not apply to the performance of services under this Agreement;

D. Any and all Grant Awards, Contracts, or other Agreements governing this Agreement;

E. Any and all Requests for Proposals, or portions thereof, issued by the City for purposes of this Agreement as designated by the Director;

F. All manuals, policies, procedures, informational memoranda, Program guidance, instructions, directives, or other written documentation issued by the federal government, State of Colorado, or the City and provided to the Contractor concerning the Program or the expenditure of Federal Funds;

G. All applicable circulars of the U.S. Office of Management and Budget (“OMB”) including without limitation Omni-Circular “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, 2 C.F.R. Part 200, *et seq.*;

H. United States Department of Labor (USDOL), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter II, Part 2900 et al.;

I. United States Department of Labor-Employment and Training Administration (USDOL-ETA) Training and Employment Guidance Letters (TEGLs) issued under the authority of the Workforce Innovation and Opportunity Act for the Adult, Youth, Dislocated Worker, Wagner Peyser Employment Service, and other core partner programs concerning guidance on operations, services, and program requirements. <http://wdr.doleta.gov/directives/>

J. Pass-Through of City Obligations Pursuant to the Applicant Verification Statute:

(1) 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 hereafter amended

(together the “Applicant Verification Statute”). Compliance by the Contractor is expressly made a contractual condition of this Agreement.

(2) The Contractor shall verify the lawful presence in the United States, of each natural person eighteen (18) 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. 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 hereto as **Exhibit F** and incorporated herein by this reference. The Contractor shall maintain copies of each Applicant’s identification documentation and affidavit, and shall make such copies available to the City upon request;

K. Grievance Policy. The parties desire to ensure that clients are being adequately informed over pending actions concerning their continued participation in the program or activity provided by the Contractor. Also, clients must be allowed adequate opportunity to communicate dissatisfaction with the facilities or services offered by the Contractor. In order to satisfy this requirement, the Contractor agrees to provide a written “Grievance Policy” as a mechanism to provide opportunities for the City and its clients to meaningfully communicate problems, dissatisfaction, and concerns and to establish procedures for resolution of grievances. The policy must be communicated to clients upon their initial receipt of services. The Contractor agrees that a formal “Grievance Policy” will be adopted by its governing body and submitted to the Director for approval at the Director’s discretion on or before the commencement of the term of this Agreement. Failure to provide an acceptable Grievance Policy shall constitute a material breach of this Agreement;

L. Debarment. The Contractor is subject to the prohibitions on contracting with a debarred organization pursuant to U.S. Executive Orders 12549 and 12689, Debarment and Suspension, and implementing federal regulations codified at 2 C.F.R. Part 180 and 2 C.F.R. Part 376. By its signature below, the Contractor assures and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The Contractor shall provide immediate written notice to the Director if at any time it learns that its certification to enter into this Agreement was erroneous when submitted or has become erroneous by reason of changed circumstances. If the Contractor is unable to certify to any of the statements in the certification contained in this subarticle, the Contractor shall provide a written explanation to the City within thirty (30) calendar days of the date of execution of this Agreement. Furthermore, if the Contractor is unable to certify to any of the statements in the certification contained in this subarticle, the City may pursue any and all available remedies available to the City, including but not limited to terminating this Agreement immediately, upon written notice to the Contractor.

The Contractor shall include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" in all covered

transactions associated with this Agreement. The Contractor is responsible for determining the method and frequency of its determination of compliance with Executive Orders 12549 and 12689 and their implementing regulations;

M. Prohibited Transactions.

(1) Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement, no person having any such interest will be employed.

(2) Members of Congress. No member of or delegate to the Congress of the United States of America shall be admitted to any share or part hereof or to any benefit to arise from this Agreement.

(3) Employees. No officer or employee of either the City or the Contractor shall derive any unlawful personal gain, either by salary, fee payment or personal allowance, from his or her association with the other party to this Agreement. Any contractual provision that contravenes the provisions of this Article shall be null and void. This Article shall not prohibit an officer or administrator of one party to this Agreement from being reimbursed by the other party for actual, out-of-pocket expenses incurred on behalf of the other party.

(4) No Political Activity. Without limiting the foregoing, the Contractor agrees that political activities are prohibited under this Agreement, and agrees that no funds paid to it by the City hereunder will be used to provide transportation for any persons to polling places or to provide any other services in connection with elections;

N. Byrd Anti-Lobbying. If required the Maximum Contract Amount exceeds \$100,000, the Contractor must complete and submit to the Agency a required certification form provided by the Agency certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award;

O. Mandatory disclosures. Contractor must disclose, in a timely manner, in writing to the Agency all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the work to be performed under this Agreement. Failure to make required disclosures can result in the Agency taking any of the remedies described in 2 C.F.R. §200.338;

P. The Federal Funding Accountability and Transparency Act of 2006, FFATA, and implementing rules and regulations;

Q. The Deficit Reduction Act of 2005, 109 P.L. 171;

R. The Clean Air and Federal Water Pollution Control Act, 42 U.S.C. 7606 (Section 306) and 33 U.S.C. 1368 (Section 508), Executive Order 11738, and other applicable Environmental Protection Agency (EPA) regulations. Contractor understands that all violations shall be reported to the Federal awarding agency, the Regional Office of the EPA, and the City;

S. The Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871) concerning energy efficiency and conservation plans;

T. Non-Discrimination and Equal Employment Opportunity (Federal requirements):

(1) In carrying out its obligations under the Agreement, Contractor and its officers, employees, members, and subcontractors hereby affirm current and ongoing compliance with Section 188 of the Workforce Innovation and Opportunity Act, 29 CFR Part 38, Title VII of the Civil Rights Act of 1964, The Americans With Disabilities Act of 1990, Sections 504 and 508 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, Title II Subpart A of the Americans with Disabilities Act of 1990, and all other nondiscrimination and equal employment opportunity statutes, laws, and regulations, as may be amended from time to time. Contractor agrees not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries, applicants, and participants only, citizenship status, or race, religion, national origin, ancestry, color, gender, gender identity, sexual orientation, age, disability, political affiliation or belief, or veteran status. Contractor will ensure that all qualified applicants are hired, and all employees are considered for promotion, demotion, transfer; recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, selection for training (including apprenticeship), or any other employment-related opportunities, without regard to race, religion, national origin, ancestry, color, gender, gender identity, sexual orientation, age, disability, political affiliation or belief, or veteran status.

(2) Contractor agrees to post notices affirming compliance with all applicable federal and state non-discrimination laws in conspicuous places accessible to all employees and applicants for employment. Contractor will affirm that all qualified applicants will receive consideration for employment without regard to race, religion, national origin, ancestry, color, gender, gender identity, sexual orientation, age, disability, political affiliation or belief, or veteran status in all solicitations or advertisements for employees placed by or on behalf of Contractor.

(3) Contractor will incorporate the foregoing requirements of this section in all of its subcontracts.

(4) Contractor agrees to collect and maintain data necessary to show compliance with the nondiscrimination provisions of this section.

U. No Discrimination in WIOA Programs and Activities. The Contractor will comply with any and all applicable federal, state, and local laws that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, and political affiliation and belief, and, for beneficiaries, applicants, and participants only, citizenship and participation in any WIOA Title I-financially assisted program or activity. In particular, and not by way of limitation, Contractor will comply with Section 188 of the Workforce Innovation and Opportunity Act, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity. Further, Contractor will comply with 29 CFR Part 38, Title VI of the Civil Rights Act of 1964 (Title VI), Sections 504 and 508 of the Rehabilitation Act of 1973 (Section 504 and Section 508), the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 (ADA), Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 (Title VII), the Age Discrimination in Employment Act (ADEA), the antidiscrimination provision of the Immigration Reform and Control Act of 1986 (IRCA), the Equal Pay Act (EPA), and all other nondiscrimination statutes, laws, and regulations, as may be amended from time to time. Violations may be subject to any penalties set forth in said applicable laws and the Contractor agrees to indemnify and hold the City harmless from any and all claims, losses, or demands that arise under this subarticle. Contractor acknowledges that Title VI prohibits national origin discrimination affecting persons with limited English proficiency (LEP). Contractor hereby warrants and assures that LEP persons will have meaningful access to all services provided under this Agreement. To the extent Contractor provides assistance to LEP individuals through the use of an oral or written translator or interpretation services, in compliance with this requirement, LEP persons shall not be required to pay for such assistance.

24. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this contract, 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 identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

25. 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 subconsultant 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 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 subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant 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.

26. GOVERNING LAW; VENUE: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

27. LEGAL AUTHORITY: Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Contractor or the person signing the Agreement to enter into the Agreement.

28. NO CONSTRUCTION AGAINST DRAFTING PARTY: The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because the Agreement or any provisions thereof were prepared by a particular party.

29. INTELLECTUAL PROPERTY RIGHTS:

A. Ownership: Except where the City has agreed in writing to accept a license or where expressly prohibited by federal law, the City and the Contractor intend that any and all copyright, trademark, servicemark, trade secret, patent, patent applications, or other intellectual property or proprietary rights, both registered and unregistered, whether existing now or in the future (“Intellectual Property”) in and to the Services, any other affiliated services supplied by the

Contractor, directly or indirectly, and any creative works, inventions, discoveries, know-how, social media accounts, websites, domain names, and mobile applications, and any improvements to and derivative works of any of the foregoing, created, purchased, licensed, used, or supplied by the Contractor, a Subcontractor, or a third party contractor in connection with the Services are the sole property of the City.

B. Copyrightable Intellectual Property:

(1) The City and Contractor intend that Intellectual Property includes without limitation any and all records, case files, databases, materials, information, text, logos, websites, mobile applications, domain names, templates, forms, documents, videos, podcasts, newsletters, e-mail blasts, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, multimedia or audiovisual materials, negatives, specifications, software, data, products, ideas, inventions, templates, knowhow, studies, reports, and any other work or recorded information created, purchased, licensed, used, or supplied by the Contractor, or any of its Subcontractors or other third party contractors, in connection with the Services, in preliminary or final forms, in paper or electronic format, and on any media whatsoever (collectively, “Materials”). The Contractor shall not use, willingly allow another to use, or cause any Materials to be used for any purpose other than for the performance of the Contractor's duties and obligations under this Contract without the prior, express written consent of the City. To the extent permitted by the U.S. Copyright Act, 17 U.S.C. §101, *et seq.*, 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 rights, 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.

(2) Contractor shall not create, purchase, license, supply or use any logos, software programs, software as a service, websites, mobile applications, domain names, social media accounts, or third party software, social media, applications or websites in connection with the Services or any other affiliated services supplied by the Contractor unless the program, product or service, in each case, is specifically identified as an expense on Exhibit A or Contractor has obtained the Director’s prior written permission to create, purchase, license, supply or use the program, product or service and otherwise complied with all requirements of the City concerning said matter. The Contractor shall maintain and keep current an inventory, in such format as designated by the Director, of all such approved Materials. Contractor will submit a copy of the most current version of the Materials inventory with Contractor’s periodic request for payment. The City will have final decision making authority to determine and/or edit the final content, design, layout, format, and “look and feel” of any such Materials. The Contractor will ensure that all Materials, or any portion or version thereof, do not, directly or indirectly, in whole or in part, infringe upon any third party’s copyright, trademark, patent, or other intellectual property rights, title or interests.

C. Patentable Intellectual Property: The City and Contractor intend that Intellectual Property includes any and all software that is excluded from copyright materials as well as any improvement, invention, discovery, know-how, business method, or other invention which is or may be patentable or otherwise protectable under the laws of the United States (whether or not produced in the United States) conceived or first actually reduced to practice in the performance of work under this contract by the Contractor, or any of its third party contractors, in connection with the services provided under the Agreement. The Contractor shall immediately notify the Director in writing of any such patentable Intellectual Property and provide the Director with a complete written report describing in detail each specific software, know-how, method, invention, improvement or discovery.

D. Third Party Products, Materials and Processes: Contractor represents and warrants that the Services, and any other affiliated services supplied by Contractor in connection with this Agreement, will not infringe upon or violate the City's Intellectual Property, any other rights held by the City to any intellectual property, or the intellectual property or proprietary rights of any third party. If the Contractor employs any third party product, design, device, material or process covered by letter of patent or copyright, it shall provide for such use by suitable legal agreement with the third party patentee or copyright owner. The Contractor shall defend, indemnify, and hold harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the City for any costs, expenses and damages which it may be obligated to pay by reason of any infringement, at any time during the prosecution or after the completion of Services. Where the Services, or any other affiliated services provided by Contractor, contain false, offensive, or disparaging content or portray the City, its appointed and elected officials, agents and employees, or any third party in a disparaging way, either as solely determined by the City or the third party, as appropriate, Contractor will immediately remove the false, offensive, or disparaging content. If Contractor fails to do so, the City will have the right, at the City's sole election, to immediately enforce any remedies available to it under this Agreement or applicable laws. The requirements and obligations contained in the preceding sentences of this Article 27.D will not apply to a specific third party patented device, material or processes that the Director has directed, in writing, the Contractor to use.

E. Federal License: Contractor acknowledges that pursuant to Federal Law, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.

F. Restrictions on Other City Intellectual Property: The Contractor will not use, reproduce, transmit, copy, distribute, alter, modify, register, or incorporate any registered or unregistered trademark or servicemark, logo, seal, flag, official insignia, name, icon, copyright, patent, or domain name of the Agency or the City without, in each case, the prior written permission of the Director and the City's Director of Marketing, or their designated representatives. Upon receipt of such permission, the Contractor shall fully coordinate all logo use

with the City's Director of Marketing or, if and as directed, with a designated employee of the Agency.

30. CONFIDENTIAL INFORMATION; OPEN RECORDS:

A. Confidential Information: Contractor acknowledges and accepts that, in the performance of all work under the terms of this Agreement, 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") or (2) confidential proprietary information owned by third parties ("Third Party Proprietary Data"). For purposes of this Agreement, City Proprietary Data and Third Party Proprietary Data shall be referred to collectively as "Confidential Information". "Confidential Information" shall include any materials or information which may be designated or marked "Proprietary" or "Confidential," or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Contractor agrees that disclosure of Confidential Information may be damaging to the City or third parties. Contractor agrees that all Confidential Information provided or otherwise disclosed by the City to Contractor or as otherwise acquired by Contractor during its performance under this Agreement shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall limit access to all Confidential Information to only those employees who have a need to know such information in order to provide services under this Agreement. Contractor shall exercise the same standard of care to protect all Confidential Information as a reasonably prudent contractor or as 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 Executive Director.

(1) Protected Health Information: The Contractor will comply with all applicable state and federal laws protecting the privacy or confidentiality of any and all protected health information and all requirements contained in **Exhibit G**. Contractor shall submit to the Director, within fifteen (15) days of the Director's written request thereof, copies of Contractor's policies and procedures to maintain the confidentiality of protected health information to which the Contractor has access.

(2) Protected Substance Abuse Records: The Contractor will comply with all applicable state and federal laws protecting the privacy or confidentiality of any and all protected substance abuse treatment information and all requirements contained in **Exhibit G**. Contractor shall submit to the Director, within fifteen (15) days of the Director's written request thereof, copies of Contractor's policies and procedures to maintain the confidentiality of protected health information to which the Contractor has access.

(3) Use of Confidential Information: Except as expressly provided by the terms of this Agreement, 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. Contractor further acknowledges that by providing access to Confidential Information, the City is not granting to Contractor any right or license to use such data except as provided in this Agreement. 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 Executive Director.

(4) City Methods: Contractor agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by Contractor or provided by the City in connection with this Agreement shall be deemed to be the Intellectual Property of the City, as defined in Section 29 of this Agreement, and all rights, including copyright, shall be reserved to the City. Contractor agrees, with respect to Confidential Information, that: (a) Contractor shall not copy, recreate, reverse-engineer or decompile such data, in whole or in part, unless authorized in writing by the Executive Director; (b) Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (c) Contractor shall, upon the expiration or earlier termination of the Agreement, destroy in accordance with Section 31(i) of this Agreement (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

(5) Employees and Subcontractors: The requirements of this provision shall be binding on Contractor's employees, agents, officers and assigns. Contractor warrants that all of its employees, agents, and officers who are designated to provide services under this Agreement ("Contractor Staff") will be advised of this provision. All requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.

(6) 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. Contractor acknowledges and understands that Confidential Information may not be completely free of errors. Contractor is hereby advised to verify its work. 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, Contractor agrees to contact the City immediately. This Section shall survive the termination of this Agreement.

B. 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., and that in the event of a request to the City for disclosure of such information, the City shall advise Contractor of such request in order to give 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 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. 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 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. This Section will survive the termination of this Agreement.

31. PERSONAL INFORMATION AND DATA PROTECTION:

A. "Data Protection Laws" means (i) all applicable international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements relating in any way to the privacy, confidentiality or security of Personal Information (as defined below in Section 31(b)); and (ii) all applicable laws and regulations relating to electronic and non-electronic marketing and advertising; laws regulating unsolicited email communications; security breach notification laws; laws imposing minimum security requirements; laws requiring the secure disposal of records containing certain Personal Information; laws imposing licensing requirements; laws and other legislative acts that establish procedures for the evaluation of compliance; and all other similar applicable requirements. Further, and not by way of limitation, Contractor shall provide for the security of all City Data, and Personal Information if applicable, in accordance with all policies promulgated by Denver Technology Services, as amended, and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJIS, (iv) the Colorado Consumer Protection Act, (v) the Children's Online Privacy Protection Act (COPPA), (vi) the Family Education Rights and Privacy Act (FERPA), and (vii) Colorado House Bill 18-1128.

B. "Personal Information" means all information that individually or in combination, does or can identify a specific individual or from which a specific individual can be identified, contacted, or located. Personal Information includes, without limitation, name, signature, address, e-mail address, telephone number, social security number (full or partial), business contact information, date of birth, national or state identification numbers, bank account number, credit or debit card numbers, and any other unique identifier or one or more factors specific to the individual's physical, physiological, mental, economic, cultural, or social identity.

C. Compliance with Law and Regulation: Contractor confirms and

warrants that it complies with any and all applicable Data Protection Laws relating to the collection, use, disclosure, and other processing of Personal Information and that it will perform its obligations under this Agreement in compliance with them. This section will survive the termination of this Agreement.

D. Software Programs; Security of Personal Information and access to Software Programs: Contractor will use the software programs designated by the City to collect, use, process, store, or generate all data and information, with or without Personal Information, received as a result of the Contractor's services under this Agreement. Contractor will fully comply with any and all requirements and conditions associated with the use of said software programs as provided by the City. In addition, Contractor will establish and maintain data privacy and information security policies and procedures, including physical, technical, administrative, and organizational safeguards, in order to: (i) ensure the security and confidentiality of Personal Information; (ii) protect against any anticipated threats or hazards to the security or integrity of Personal Information; (iii) protect against unauthorized disclosure, access to, or use of Personal Information; (iv) ensure the proper use of Personal Information; and (v) ensure that all employees, officers, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. Contractor shall also provide for the security of all Personal Information in accordance with all policies promulgated by Denver Technology Services, as amended, and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the Children's Online Privacy Protection Act (COPPA), and (ii) Colorado House Bill 18-1128. The Contractor shall submit to the Executive Director, within fifteen (15) days of the Executive Director's written request, copies of the Contractor's policies and procedures to maintain the confidentiality of Personal Information to which the Contractor has access.

E. Confidentiality; No Ownership by Contractor: Unless otherwise permitted expressly by applicable law, all Personal Information collected, used, processed, stored, or generated as the result of the services to be provided under this Agreement will be treated by Contractor as highly confidential information. Contractor will have no right, title, or interest in any Personal Information or any other data obtained or supplied by Contractor in connection with the services to be provided under this Agreement. The City shall own all information, and other work product, with or without Personal Information, developed or obtained by Contractor pursuant to this Agreement ("City Work Product"). Contractor has an obligation to immediately alert the City if Contractor's security has been breached or if Contractor is aware of any unauthorized disclosure of Personal Information. This Section will survive the termination of this Agreement.

F. Contractor Use of Personal Information and City Work Product: Contractor will take all necessary precautions to safeguard the storage of Personal Information and City Work Product including without limitation: (i) keep and maintain Personal Information and City Work Product in strict confidence and in compliance with all applicable Data Protection Laws, and such other applicable laws, using such degree of care as is appropriate and consistent with its obligations as described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (ii) use and disclose Personal Information or City Work Product

solely and exclusively for the purpose of providing the services hereunder, such use and disclosure being in accordance with this Agreement, and applicable law; (iii) not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information or City Work Product for Contractor's own purposes or for the benefit of anyone other than the City without the prior written consent of the City and the person to whom the Personal Information pertains; and (iv) not engage in "data mining" of Personal Information or City Work Product except as specifically and expressly required by law or authorized in writing by the City. This Section will survive the termination of this Agreement.

G. Employees and Subcontractors: Contractor will ensure that, prior to being granted access to Personal Information or City Work Product, Contractor Staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the data they will be handling. Only those Contractor Staff who have a direct need for Personal Information, City Work Product, or Confidential Information shall have access to any information provided to Contractor under this Agreement. Prior to allowing any Contractor Staff to access or use any Personal Information, City Work Product, or Confidential Information, the Contractor shall require any such Contractor Staff to review and agree to the usage and access terms outlined in this Agreement. Contractor will inform its Contractor Staff of the obligations under this Agreement, and all requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. Contractor shall not disclose Personal Information, City Work Product, or Confidential Information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement. Unless Contractor provides its own security protection for the information it discloses to a third-party service provider, the Contractor shall require the third party service provider to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the Personal Information, City Work Product, or Confidential Information disclosed and reasonably designed to protect Personal Information, City Work Product, or Confidential Information from unauthorized access, use, modification, disclosure, or destruction. This Section will survive the termination of this Agreement.

H. Loss of Personal Information or City Work Product: In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Personal Information or City Work Product, Contractor will, as applicable: (i) notify the affected individual and the City as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (ii) cooperate with the affected individual and the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the affected individual or the City; (iii) in the case of Personal Information and if required by applicable law, at the affected individual's sole

election: (A) notify the affected individuals in accordance with any legally required notification period; or, (B) reimburse the affected individual for any costs in notifying the affected individuals; (iv) in the case of Personal Information and if required by applicable law, provide third-party credit and identity monitoring services to each of the affected individuals for the period required to comply with applicable law; (v) perform or take any other actions required to comply with applicable law as a result of the occurrence; (vi) indemnify, defend, and hold harmless the City and the affected individual for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the City or the affected individual in connection with the occurrence; (vii) be responsible for recovering lost data and information in the manner and on the schedule set forth by the City without charge to the affected individual, and (viii) provide to the City and the affected individual a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, will comply with applicable law, be written in plain terms in English and in any other language or languages specified by the affected individual, and contain, at a minimum: (i) name and contact information of Contractor's representative; (ii) a description of the nature of the loss; (iii) a list of the types of data involved; (iv) the known or approximate date of the loss; (v) how such loss may affect the affected individual; (vi) what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; (vii) contact information for major credit card reporting agencies; and (viii) information regarding the credit and identity monitoring services to be provided by Contractor. This Section will survive the termination of this Agreement.

I. Data Retention and Destruction: Using appropriate and reliable storage media, Contractor will regularly backup all City Work Product and Personal Information used in connection with this Agreement and retain such backup copies consistent with the Contractor's data retention policies. Upon termination of the Agreement, at the City's election, Contractor will either securely destroy or transmit to City the City Work Product in an industry standard format. Upon the City's request, Contractor will supply City a certificate indicating the records disposed of, the date disposed of, and the method of disposition used. With respect to City Work Product controlled exclusively by Contractor, Contractor will immediately preserve the state of the Personal Information or City Work Product at the time of the request and place a "hold" on Personal Information or City Work Product destruction or disposal under its usual records retention policies of records that include Personal Information or City Work Product, in response to an oral or written request from City indicating that those records may be relevant to litigation that City reasonably anticipates. Oral requests by City for a hold on record destruction will be reduced to writing and supplied to Contractor for its records as soon as reasonably practicable under the circumstances. City will promptly coordinate with Contractor regarding the preservation and disposition of these records. Contractor shall continue to preserve the records until further notice by City. This Section will survive the termination of this Agreement.

J. No Other Databases: Except as expressly approved in advance by the City,

Contractor will not establish or maintain a separate database containing Personal Information or City Work Product to provide the services under the Agreement. This Section will survive the termination of this Agreement.

K. Data Transfer Upon Termination: Upon termination or expiration of this Agreement and City's request, Contractor will ensure that all Personal Information and City Work Product is securely transferred to City, or a party designated by City, within thirty (30) calendar days. Contractor will ensure that the data will be provided in an industry standard format. Contractor will provide City with no less than ninety (90) calendar days' notice of impending cessation of its business or that of any Contractor subcontractor and any contingency plans in the event of notice of such cessation. In connection with any cessation of Contractor's business with its customers, Contractor shall implement its contingency and/or exit plans and take all reasonable actions to provide for an effective and efficient transition of service with minimal disruption to City. Contractor will work closely with its successor to ensure a successful transition to the new service or equipment, with minimal downtime and effect on City, all such work to be coordinated and performed in advance of the formal, final transition date mutually agreed upon by Contractor and City. This Section will survive the termination of this Agreement.

32. SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor's obligations to provide insurance and to indemnify the City will 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.

33. ADVERTISING AND PUBLIC DISCLOSURE:

A. The Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor's advertising or public relations materials without first obtaining the written approval of the Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Contractor shall notify the Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

B. Acknowledgment of Funding: In accordance with applicable federal or state requirements, the Contractor shall prominently insert the following acknowledgement (or substantially similar acknowledgement) in all allowable advertising, public relations items, or informational materials, including without limitation, signs, media releases, promotional items, giveaways, and public announcements: "The activities, services, programs, and materials are made possible by support from the Office of Economic Development, Workforce Development of

the City of and County of Denver through funding from the Workforce Innovation and Opportunity Act.”

34. CITY EXECUTION OF AGREEMENT: The Agreement will not be 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.

35. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: The 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 modification has any force or effect, unless embodied in the Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment will have any force or effect unless embodied in a written amendment to the Agreement properly executed by the parties. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City. The Agreement is, and any amendments thereto will, be binding upon the parties and their successors and assigns. Amendments to this Agreement will become effective when approved by both parties and executed in the same manner as this Agreement.

36. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Contractor shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.

37. 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.

38. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE: This Agreement consists of Articles 1 through 39, which precede the signature page and the following attachments which are incorporated herein and made a part hereof by reference:

- A. Financial Administration Terms and Conditions – Exhibit C;
- B. General Program Terms and Conditions – Exhibit D;
- C. Work Statement – Exhibit A;
- D. Budget – Exhibit B;
- E. Proof of Insurance – Exhibit E
- F. Verification Affidavit – Exhibit F
- G. HIPAA/HITECH Business Associate Terms – Exhibit G

In the event of an irreconcilable conflict between a provision contained in Articles 1 through 39, 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:

- A. Articles 1 through 39 (Agreement)
- B. Exhibit C (unless the City specifically notifies the Contractor in writing that a provision of Exhibit C prevails over this Agreement)
- C. Exhibit D (unless the City specifically notifies the Contractor in writing that a provision of Exhibit D prevails over this Agreement)
- D. Exhibit A – Work Statement (unless the City specifically notifies the Contractor in writing that a provision of Exhibit A prevails over this Agreement)
- E. Exhibit B – Budget
- F. Exhibit E – Proof of Insurance
- G. Exhibit F – Verification Affidavit
- H. Exhibit G – HIPAA/HITECH Business Associate Terms

39. 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.

Signature pages and Exhibits follow this page.

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: OEDEV-201948966-00

Contractor Name: ABILITY CONNECTION COLORADO INC

By: *Judith E Ham*

Name: Judith E Ham
(please print)

Title: Pres / CED
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Ability Connection Colorado, Inc.
Workforce Innovation and Opportunity Act (WIOA)
Scope of Services for Youth Services Provider
June 1, 2019 through June 30, 2020

Federal Award ID (FAIN) #: AA-30734-17-55-A-8
Federal Award Date: 8/10/2017
Federal Awarding Agency: U.S. Department of Labor / ETA
Division of Federal Assistance
200 Constitution Avenue NW-Room N-4716
Washington DC 20210
Pass-Through Entity: City & County of Denver
Economic Development & Opportunity
101 W. Colfax Ave Suite 850 Denver CO 80202
Awarding Official: State of Colorado – Division of Employment & Training
633 17th Street, 7th Floor, Denver CO 80202-3627
DUNS #: 037547882

1.0 Introduction

- 1.1** This scope of service outlines Program, Administrative, and other requirements that must be satisfied by Ability Connection Colorado, Inc., the Out of School Youth (OSY) Services Provider, hereinafter referred to as the “Sub-recipient”, receiving funds from the City and County of Denver Office of Economic Development (OED), currently operating as Denver Economic Development & Opportunity (DEDO) on behalf of the Denver Workforce Services (DWS) to operate programs as prescribed by the Workforce Innovation and Opportunity Act (WIOA).
- 1.2** As policies and/or procedures are revised or updated, DEDO/OED-DWS will release formal notification and policies electronically. DEDO/OED-DWS will develop policies in alignment with state and federal requirements and will work with sub-recipient to develop procedures, it is expected that the sub-recipient draft procedures within specified timeframe as requested by DEDO/OED.
- 1.3** The Sub-recipient shall be prepared to expand or reduce the delivery of services to businesses and youth job seekers if there are increases or reductions and/or changes in project services or scale are required due to actual funding allocations throughout the contract’s term.
- 1.4** For the purposes of this agreement, this Service Provider is considered a “Sub-recipient” and the following reference from the Uniform Guidance Circular is applicable:
- 1.4.1** The non-Federal entity may concurrently receive Federal awards as a recipient, a sub-recipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities.

- 1.4.2 Subaward means an award provided by a pass-through entity to a sub-recipient for the sub-recipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. 2 CFR §200.92
- 1.4.3 Characteristics that support the classification of the non-Federal entity as a sub-recipient include when the non-Federal entity:
1. Determines who is eligible to receive what Federal assistance;
 2. Has its performance measured in relation to whether objectives of a Federal program were met;
 3. Has responsibility for programmatic decision making;
 4. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
 5. In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- 1.4.4 Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward 2CFR §200.22
- 1.4.5 Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:
1. Provides the goods and services within normal business operations;
 2. Provides similar goods or services to many different purchasers;
 3. Normally operates in a competitive environment;
 4. Provides goods or services that are ancillary to the operation of the Federal program; and
 5. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirement may apply for other reasons. 2CFR §200.330

The sub-recipient will adhere to the WIOA outcomes as listed below:

	Estimated Carry- in	Q1	Q2	Q3	Q4	New OSY Sub-Total	Total
WIOA OSY	140	12	40	68	80	80	220

Quarterly benchmark numbers are cumulative. Carry-in numbers are estimated, and the final enrollment numbers listed above will be determined by September 30th, 2019. A contract modification illustrating final numbers will be completed by December 31st, 2019.

2.0 Youth Provider Roles and Responsibilities

2.1 Responsibilities and Requirements for Sub-recipient Financial Monitoring

- 2.1.1 Federal guidelines require that all recipients of federal funds authorized under the Workforce Innovation and Opportunity Act (WIOA) be subject to financial monitoring to ensure that adequate financial controls are in place. When certain criteria are met, the contracted party is considered a “Sub-recipient” and must comply with all WIOA federal and state laws, rules and regulations that the LWDA is subject to (2 CFR §200.330).
- 2.1.2 The Sub-recipient is responsible for oversight of the operations of the Federal award supported activities. The Sub-recipient must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the Sub-recipient must cover each program, function, or activity.
- 2.1.3 Additionally, the Sub-recipient will be monitored by DEDO/OED-DWS to ensure that the sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that the sub award performance goals are achieved.
- 2.1.4 At a minimum, the Sub-recipient monitoring shall include:
 - a. Reviewing financial and performance reports required by the pass-through entity.
 - b. Following-up and ensuring that the Sub-recipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Sub-recipient from the pass-through entity detected through audits, on-site reviews, and other means.
 - c. Issuing a management decision for audit findings pertaining to the Federal award provided to the Sub-recipient from the pass-through entity as required by §200.521 Management decision.

3.0 Relationship with the DEDO/OED-DWS

To ensure the best possible performance of the Denver Workforce system in Denver County, and to derive a maximum return on public investment, the DEDO/OED-DWS intends to support the Sub-recipient by providing certain services and supports.

3.1 The DEDO/OED-DWS shall provide the Sub-recipient with the following:

- a. Orientation to federal, state and local WIOA policies and procedures;
- b. Ongoing training on the Connecting Colorado data collection procedures as needed;
- c. Training regarding DEDO policies/procedures related to WIOA as determined necessary by DEDO and/or requested by sub-recipient
- d. Technical assistance, including information on best practices, and assistance in implementing effective management practices, customer service practices, etc.;

- e. Support from DEDO/OED-DWS Business Services team which can include technical assistance, job fairs, customized recruitments, incumbent worker training and other services as deemed necessary.
- f. Labor market information (LMI);
- g. Support from DEDO/OED-DWS Education services team including Career Pathways Information and workshops, information and evaluation of training program providers, and assistance with the Eligible Training Provider list.
- h. Ongoing responsive support; and
- i. Opportunities to share successful practices and discuss issues with other WIOA contracted service providers and partners.
- j. The Sub-recipient shall be required to participate in technical assistance and training as designated by DEDO/OED-DWS throughout the term of this contract.

4.0 Relationship with Required Partners and Denver Workforce System Integration

The Sub-recipient shall work in collaboration with DEDO/OED-DWS and the One-Stop Operator to coordinate the delivery of workforce services among the various mandated partner agencies and designated service providers to support the integration of partners into one cohesive system within 60 days of contract execution.

4.1 To achieve the goal of seamless service delivery to all youth job seekers and businesses, the Sub-recipient may be required to work in coordination with the Denver Workforce system network and its mandated partners, which include:

- a. Programs under Title I of WIOA including Adults, Dislocated Workers, Youth, Job Corp, YouthBuild, Native American programs and migrant and seasonal farmworker programs;
- b. Employment services under Wagner Peyser Act;
- c. Adult education and literacy services under Title II of WIOA;
- d. Vocational Rehabilitation program authorized under Title I of the Rehabilitation Act of 1973;
- e. Career and Technical Education Programs at the post-secondary level authorized under the Carl Perkins Career and Technical Education Act of 2006;
- f. Jobs for Veterans State grant programs;
- g. Employment and training activities carried out under the Community Service Block Grant;
- h. Employment and training activities carried out by the Department of Housing and Urban Development;
- i. Programs authorized under State unemployment compensation laws;
- j. Programs under the Second Chance Act of 2007;
- k. Temporary Assistance for Needy Families (TANF) authorized under part A of the Social Security Act

4.2 Cooperative Agreements

In collaboration with the DEDO/OED-DWS, the Sub-recipient shall establish a cooperative agreement with the One Stop Operator and other essential community based organizations (CBOs) that formalizes the relationship and includes at a minimum: co-location schedules at AJCs and CBO's as needed and deemed beneficial to facilitate full access to customers, referral processes and points of contact, regular meetings with and between partners as needed and deemed necessary to coordinate the most effective and efficient service delivery to job seekers.

This will include some of the WIOA-mandated partners and other required organizations with which the DEDO/OED-DWS has MOU's with to provide services.

4.3 Subaward Agreements

The Sub-recipient shall enter into agreements with the following partners included in its proposal to provide supplemental services in compliance with Article 15 of the Agreement. The Sub-recipient shall conduct fiscal and performance monitoring of all subcontractors to ensure compliance to all terms of the contract and federal regulations.

4.4 Adult Education, English Language Acquisition and Basic Skills Tutoring

4.4.1 Under WIOA, Title II (Adult Education) is a mandated partner of Title I (WIOA). As a Title I agency, the Contractor shall refer any WIOA registered customer deemed to be 1) not proficient in English, 2) lacking a high school diploma, or 3) basic skills deficient, to the appropriate Title II program, or other entity/service provider to address the skills deficiency. Priority for referrals to Title II services should start with the DEDO/OED-DWS required partners, based on the Cooperative Agreements. If their capacity is full, referrals can be made to other Title II programs as needed. The directory of adult education initiatives is located here: <https://www.cotrainingproviders.org>

4.4.2 The Contractor is required to facilitate any referrals made to a Title II program and to track and monitor customer progress throughout the referral, ensuring that the customer has the appropriate amount of guidance and support to successfully complete the Title II service and continue to achieve the employment goals established in the ISS/IEP. The Contractor shall make support services available to customers enrolled in Title II programs to ensure their successful completion. The Contractor shall remain in contact with the customer and continue to provide career counseling concurrently with Title II services.

5.0 Relationship with the Community

The Sub-recipient shall ensure that all WIOA youth program services are accessible to job seekers and businesses throughout Denver County through a variety of means, including but not limited to the following:

5.1 Hours:

Sub-recipient's service locations must be consistently open Monday-Friday between 8 a.m. - 5 p.m. MST unless a City and County of Denver holiday is observed. Additionally, the Sub-recipient must coordinate alternate hours beyond traditional 8 a.m. to 5 p.m. system-wide to determine adequate access, unless precluded by external factors approved by DEDO/OED-DWS. This alternate hours' schedule should be submitted to DEDO/OED-DWS prior to September 30, 2019, to which it will be posted to DEDO's webpage, denvergov.org/economicdevelopment, as appropriate.

5.2 Community Outreach:

- 5.2.1 The Sub-recipient must conduct regular outreach activities and develop recruitment strategies to inform the community of services available and ensure a steady pipeline of participants coming through the program. The Sub-recipient is expected to network and outreach with other DEDO/OED-DWS vendors, local community and faith based organizations, libraries, other government agencies, schools and other WIOA mandated partners. The Sub-recipient shall ensure that outreach activities are coordinated in all communities of Denver County in order to recruit youth and businesses that can benefit from WIOA Youth program, particularly the targeted neighborhoods which include: Montbello, Northeast Park Hill, Five-Points, Globeville, Elyria-Swansea, Sun Valley, and Westwood.
- 5.2.2 Sub-recipient conducts regular recruitment events and will conduct orientation sessions upon request that are open to the public and describe the services available.

6.0 Denver Workforce System Coordination

6.1 The Denver Workforce System consists of: the AJCs, the DEDO/OED-DWS funded workforce service providers and the WIOA mandated partners. The AJC's serve as the high volume central locations for the City's workforce system while the youth agencies provide services to special/targeted populations and serve as a feeder into the larger system.

6.2 The Sub-recipient shall coordinate services across the system and with partner agencies; such services include the following:

6.2.1 Special Projects

6.2.1.1 The Sub-recipient must act as a fast responder or lead facilitator in staffing special outreach and recruitment events as assigned by DEDO/OED-DWS. These may include job fairs, service fairs, large scale hiring events, hosting tables at conferences or other public events, and participating in other Denver County sponsored projects and activities.

6.2.2 Coordinate System-wide Talent Recruitment

6.2.2.1 The Sub-recipient shall share and/or coordinate job leads, if unable to fill a job order or in handling a large hiring need, with the other DEDO/OED-DWS service providers and coordinate resume collection, screening, and eventual referral to the employer. This sharing of job leads is done with the goal of making the best possible fit between job opening and job candidate and to ensure that all job ready candidates in the Denver Workforce System have full access to open job opportunities. All job orders should be posted on the Connecting Colorado job portal system for WIOA programs.

6.2.3 **Community Linkages and Collaborations**

6.2.3.1 **TBD by vendor**

6.2.4 **Collaborative Partnership**

6.2.4.1 The Sub-recipient must actively participate in work teams organized by the One-Stop Operator and/or DEDO/OED-DWS with vendors, and other required partners as well as center level meetings with co-located partners. These partnerships may also include collaboration with other Colorado Workforce Development Boards and other discretionary grants and local/regional partnerships. These partnerships are designed to provide coordinated responses to businesses and job-seekers and improve overall services to customers.

6.2.5 **Referrals**

6.2.5.1 The Sub-recipient shall make referrals to other DEDO/OED-DWS grant recipients across the Denver Workforce System and/or other qualified agencies or mandated WIOA partners deemed necessary for the job-seekers' development.

7.0 **Youth Program Service Delivery and Customer Flow**

7.1 The Sub-recipient shall continue to enhance Denver's workforce development system by focusing on a fully coordinated and integrated customer service strategy, which utilizes a strengths-based engagement approach. This model requires integration of the Customer Pool to ensure that all job-seekers flow seamlessly into the workforce system with a single point of entry and share a standardized common service flow.

7.2 **WIOA Youth Program Components**

7.2.1 **Outreach and Recruitment**

The Sub-recipient shall conduct outreach and recruitment efforts throughout Denver County to generate quality enrollments of all WIOA eligible youth participants. Outreach shall be conducted in conjunction with the AJC, as needed, and will include other service providers, programs, and educational institutions

7.2.2 **Participant Eligibility**

The Sub-recipient will determine and verify program eligibility prior to program enrollment in accordance with the DEDO/OED WIOA Eligibility Determination and Documentation policy. Documentation verifying eligibility for all programs must be collected within the timeframes required by State and local requirements. Eligibility documentation must be

obtained and retained electronically in the state system, Connecting Colorado.

7.2.3 Orientation, Assessment, and Suitability

7.2.3.1 A comprehensive orientation will be provided to all youth, regardless of entry point. Orientation should include sharing information and services available through the workforce system, including partner services and any other pertinent resources to ensure successful completion of the youth's education and employment goals. Suitability for the programs and services offered through the program will be determined through an initial assessment of the customer's needs and barriers that includes, but is not limited to: assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), supportive service needs, motivation, desire, and availability for work. Completion of individual service codes to be captured and documented in Connecting Colorado

7.2.4 WIOA 14 Program Elements

The Sub-recipient must ensure that the fourteen WIOA mandated youth program elements are made available to participants and DEDO/OED-DWS shall require confirmation of associated entities performing said elements as described in USDOL Training and Employment Guidance Letter (TEGL) 21-16 or any subsequent revisions. These program elements include: Tutoring, study skills training, instruction, and dropout prevention

7.2.5 Work Experience (Work-Based Learning Options)

The Sub-recipient shall subcontract with third party vendor who will be solely responsible for administering payroll services as the **Employer of Record and will follow work experience policy.**

7.2.5.1 The Sub-recipient shall develop partnerships with employers and other entities in order to broker and facilitate the development of industry specific work-based learning service models that provide an understanding of career options within a given industry, develop industry-relevant work-based readiness skills, employment competencies, and connect youth with next steps resulting in post-secondary education, training, and/or employment. Whenever youth under the age of 18 are placed in work-based trainings, the service provider(s) is required to conduct a criminal background check and adhere to the DEDO/OED-DWSs Use of Background Checks for DEDO/OED Youth Service Providers and Employers.

7.2.5.2 A minimum of 20 percent of local WIOA Title I youth funds must be used for work-based learning. The Sub-recipient is responsible for developing a plan to meet this requirement, as well as documenting and reporting work-based learning specific expenditures on a monthly basis.

7.2.5.3 The Sub-recipient shall be able to provide Work-based Training Options as outlined in WIOA Title I Work Experience Policy.

7.2.6 Career Pathways

7.2.6.1 The Sub-recipient shall work collaboratively with the DEDO/OED-DWS in order to develop clear, articulate, and timely information that informs job-seekers about middle skilled occupations within demand driven industries, including the delivery of informative workshops. WIOA places a strong emphasis on Career Pathways as defined as, "a combination of rigorous and high quality education, training, and other services that:

- a. Aligns with the skill needs of industries in the economy of the State or regional economy involved;
- b. Prepares an individual to be successful in any of a full range of secondary or postsecondary education options;
- c. Includes counseling to support an individual in achieving the individual's education and career goals;
- d. Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
- e. Organizes education, training, and other services to meet particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
- f. Enables an individual to attain secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
- g. Helps an individual enter or advance within a specific occupation or occupational "cluster".

7.2.7 Follow-up Services

7.2.7.1 Sub-recipient will provide follow up services in alignment with the Guidance on Data Integrity and Customer Participation cycle.

7.2.7.2 Retention/Advancement Services

- a. Maintaining regular contact
- b. Additional career planning and counseling
- c. Working with the customer to identify emerging problems

- d. Helping the customer gain job/educational coping skills
- e. Peer support groups
- f. Information about additional educational opportunities
- g. Helping the customer to access needed support services

7.2.7.3 Re-Employment Services

- a. Counseling with the customer about reasons for his/her job loss
- b. Utilization of the menu of career services and supportive services to address reasons for job loss and implement appropriate solutions to secure re-employment

8.0 Performance Management and Outcomes

8.1 Performance Outcomes and Benchmarks

- 8.1.1 The Sub-recipient will be evaluated on outcomes for services provided to out of school youth and employers, program compliance audits, actual to planned enrollments, capacity level, actual to planned placements in unsubsidized employment, quality review assessment, case notes, percentage of positive exits, and successful execution of assigned special projects, as well as, additional information on the number of referrals to training, and the negotiated loading plan.
- 8.1.2 Because the WIOA performance measures are based on exits from the program, the DEDO/OED-DWS developed other key point in time benchmarks that will provide the most accurate picture possible of how agencies are meeting the Denver Workforce Systems goals.
- 8.1.3 In addition, the following benchmarks will be monitored and evaluated as part of future funding recommendations:
 - a. Expenditure rates
 - b. Three Part Program Cost Breakdown
 - i. Direct cost to customer
 - ii. Admin/Oversight (management)
 - iii. Program Delivery (case managers)
 - c. Programmatic compliance

8.2 WIOA Youth Performance Measures

- 8.2.1 The DEDO/OED-DWS reports WIOA performance outcomes to CDLE/DOL as part of the terms of its WIOA allocation. The Sub-recipient will be required to meet the prevailing rates on these measures based on the rates the DEDO/OED-DWS negotiates with CDLE annually. Measures listed below reflect the current PY18 measures; upon Colorado Department of Labor's determination of performance measures the contractor will be notified of PY19 no later than November 31, 2019. A contract modification illustrating the federally mandated performance measures will be executed by December 31, 2019.

		Denver Youth Goal
Education and Employment Rate – 2nd Quarter After Exit	The percentage of participants who are placed in education or training activities, or in unsubsidized employment, during the second quarter after exit	70.7%
Education and Employment Rate – 4th Quarter After Exit	The percentage of participants who are placed in education or training activities, or in unsubsidized employment, during the fourth quarter after exit	62.9%
Median Earnings	The median earnings of participants who are in unsubsidized employment during the second quarter after exit	\$3,000 quarterly
Credential Attainment	The percentage of participants enrolled in an education or training program who attained a recognized post-secondary credential or a secondary school diploma or equivalent during participation or within 1 year after exit	52.7%
Measurable Skill Gains	The percentage of participants who, during a program year, are in an education or training program that leads to a recognized post-secondary credential or employment and who are achieving documented academic, technical, occupational, or other forms of progress, towards such a credential or employment Measured in real time.	**
Indicators of effectiveness in serving employers	Effectiveness of servicing business (TBD)	**

****Federal or State performance indicators for Skills Gains and Effectiveness in Serving Employers have not been determined. The Sub-recipient will not be held accountable for these metrics should guidance be received in this program year. At minimum, the Sub-recipient will document both job seeker and employer services in Connecting Colorado which will allow this data to be pulled/baselined for future program year performance**

8.3 Periodic Reporting and Meetings

- a) The Sub-recipient must comply with all Local, State and Federal reporting requirements
- b) As required by the DEDO/OED-DWS, the Sub-recipient shall document, record, and report actual outcomes, on a monthly basis and provide timely and accurate monthly reports in the format designated by the DEDO/OED-DWS.

The Sub-recipient may also be required to assist with the completion of other annual, or quarterly reports as designated by the DEDO/OED-DWS, CDLE or CWDC.

- c) The Sub-recipient is also required to have staff representation at all administrative meetings and staff training workshops as determined by the DEDO/OED-DWS.
- d) The DEDO/OED-DWS will hold monthly/quarterly review meetings with the Sub-recipient to review progress toward planned versus actual benchmarks.
- e) Ad hoc and periodic reports will be required and should be anticipated.
- f) The Sub-recipient must have skilled and/or trained staff who will design and/or maintain an information system that will provide data on who is served (i.e. customer demographic information), when and how they are served (i.e. service delivery information) and the outcomes achieved (i.e. performance data).
- g) The Sub-recipient will be continually evaluated based on their performance on the CDLE performance measures and the DEDO/OED-DWS benchmarks. The Sub-recipient will review progress toward benchmarks at quarterly meetings. In the event that the Sub-recipient is failing to meet benchmarks they shall submit corrective action plans or participate in training or technical assistance meetings.
- h) Sub-recipient contract renewals will be largely based on achievement of benchmarks. The DEDO/OED-DWS also reserves the right to impose additional conditions and/or restrictions on the contract award, implement probationary periods, undertake any other corrective action, reduce funding or end contracts based on poor performance on any of the benchmarks.
- i) Where required or permitted by law or regulations, the DEDO/OED-DWS reserves the right to add, remove or change measures, targets, conditions, or restrictions as it deems reasonable

9.0 Program Staffing

9.1 Career Planner/Career Coach Roles and Responsibilities

- 9.1.1 The career advising/coaching function is a critical piece to effective service delivery. Career planning is the process by which career coaches perform ongoing counseling, career development, implementation of the Individual employment plan, intervention support and tracking of customers. The Sub-recipient should provide continuous career coaching and planning services to registered job-seekers.
- 9.1.2 DEDO/OED-DWS has set up minimum skill and duties for career coach within the WIOA system as noted below:
 - a) The development of an ISS/IEP should be in collaboration with the participant, resulting from a strengths-based engagement model
 - b) Ongoing regular contact with the customer on all aspects of their workforce development needs. This should be documented in the participant tracking system of record. A printed and signed copy of the Individual Employment Plan must be in each participant case file and/or electronic imaging system.

- c) Active participation must be documented and supported with appropriate services.
- d) Customer contact must be completed on a regular basis and case notes must be written at every point of contact relating to the participant's goals and services provided.
- e) Comprehensive knowledge, utilization, and interpretation by members of the service provider's staff of assessment tools such as the TABE, CASAS, ABLE, Workkeys and BEST and other acceptable tools issued by the Department of Labor and Employment.
- f) Coordination of services for each participant with mandated WIOA partners, including referrals to other workforce development system partners or other youth service providers and mentoring and counseling programs. The coordination of service delivery by all providers involved shall be documented in the participant's case file.
- g) Provision of educational, job development, job placement and job retention services.
- h) Quality referrals for job order; including professionally prepared resumes and materials.
- i) Workforce development technology systems to track services used by the participant and to provide the participant with information on growth industries in the Denver metro area and training provider performance. These technologies will include, at a minimum: Connecting Colorado, CBMS, CUBS and/or any other DEDO/OED-DWS system of record.
- j) Refer participants for ancillary services as appropriate.
- k) Follow-up services must be made available for a minimum of twelve months as outlined in the Data Integrity policy.

9.2 Career Coach/ Career Planner Knowledge and Skills

- 9.2.1 As mentioned above, in order to effectively provide the range of services that will be required of career coaches under the WIOA program model, career coaches or other appropriate staff at each service provider should develop certain additional skill sets and knowledge.
- 9.2.2 These skills and knowledge include, but are not limited to:
 - a) Knowledge of all DEDO/OED-DWS policies and procedures;
 - b) Knowledge of the WIOA program, mandated and community-based partners, the services each partner provides, and the eligibility requirements for each program as well as the ability to forge successful relationships with the partner programs in order to facilitate and expedite customer referrals to those programs;
 - c) A high level of command over caseload composition, status, and entry/exit needs;
 - d) Knowledge of the various barriers to employment that job-seekers may face and of the services available within and outside the WIOA system to assist job-seekers in overcoming those barriers, including supportive services;
 - e) The ability to navigate the respective system of record and any other technology required for successful program management;

- f) The ability to use all available resources to achieve the employment and employment-related outcomes set in each customer's employment plan;
- g) Knowledge of local labor market data and/or knowledge of resources informing local labor market data;
- h) The ability to use all available resources to achieve the educational and educational-related outcomes set in each customer's employment plan;
- i) Knowledge of community resources and the ability to refer and link participants with necessary services;
- j) Clear understanding of the customer's right to confidentiality; that all information provided remains confidential and should not be released to employers or other service providers without consent from the customer or his/her legal guardian;
- k) A clear understanding of the roles of business intermediaries and the coaches' role in making high quality referrals in a timely and focused manner.

9.3 Business Development

Another critical component to moving participants to unsubsidized employment is placement support. The Sub-recipient should establish a clear placement plan to effectively market program participants to local businesses. Minimally, this should include dedicated staff and strategic employer outreach and engagement and will need to attend coordination meetings with DEDO/OED-DWS and other mandated partners in order to ensure business services are consistent with the Core business services provided throughout the state. This plan should be approved by DEDO/OED-DWS and executed prior to September 30, 2019.

9.4 Average Case Loads

- 9.4.1 The average caseload size for Out of School Youth Regional Coordinator is to be negotiated with DEDO/OED-DWS.
- 9.4.2 An active participant is one that is actively engaged in WIOA services and is further defined in Data Integrity and Customer Participation Cycle for WIOA Title I Programs Policy.
- 9.4.3 In order to determine caseload levels, The Sub-recipient shall conduct an assessment of their WIOA caseloads monthly and discuss with DEDO/OED-DWS's Program Liaison. This assessment will help to track and improve the performance metrics. In this assessment process, the Sub-recipient will:
 - a) Determine the number of customers that are in long-term training and are not in immediate need of services by the career coach; and
 - b) Determine the number of customer cases that are likely to count positively by the end of the quarter/program year.

9.5 Staff Training and Professional Development Plan

- 9.5.1 The Sub-recipient may provide different methods of professional development and ongoing training for their staff. The Sub-recipient is expected to provide staff with opportunities for continuous development of skills related to WIOA services. The format may be third-party training, in-house training provided by the agency, training provided by the DEDO/OED-DWS or any combination; the specific skills focused on, the curriculum and delivery methods are choices of the agency. The Sub-recipient must participate in the DEDO/OED-DWS sponsored professional development activities. The DEDO/OED-DWS also encourages the attainment of the Certified Workforce Development Professional (CWDP) credential offered through the National Association of Workforce Development Professionals.

9.6 Staff Orientation and Onboarding

- 9.6.1 The Sub-recipient is expected to provide orientation for those newly hired to deliver WIOA services. Such orientation should include overview of WIOA policies and processes/procedures; overview of relationship between the Sub-recipient, the DEDO/OED-DWS, WIOA mandated partners and other WIOA funded service providers; basic skills and best practices for service delivery; and other topics as indicated at any point by the DEDO/OED-DWS.

9.7 Staff Retention

- 9.7.1 Since staff quality has a significant impact on the quality of service delivery, and since agencies will be devoting effort to hiring and training good staff, agencies are expected to take effective steps to ensure the retention of quality staff. The Sub-recipient shall have a plan of retention in place and make it available to the DEDO/OED-DWS upon request.

9.8 Salary and Wage Requirements

- 9.8.1 In accordance with its values, the DEDO/OED-DWS seeks to provide high quality services to our customers. We believe in the increased professionalization of the workforce development field and strive to ensure that our system reflects the dignity of work. Consequently, the DEDO/OED-DWS is requiring that all full-time positions receive a minimum salary that is in line with similar positions in the Denver metro area. The DEDO/OED-DWS also strongly encourages the Sub-recipient to pay professional staff a competitive wage for their level of effort and expertise.

9.8.2 Salary and Bonus Limitations

“In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading ‘Employment and Training’ that are available for expenditure on or after June 15, 2015, shall be used by a recipient or sub recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II.” This new requirement includes all WIOA grant funded projects. The PY19 amount for Executive Level II is \$189,600. The Sub-recipient must comply with this requirement. (<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>)

10.0 Administrative Responsibilities

10.1 Compliance, Reporting and Recordkeeping

- 10.1.1 The Sub-recipient must comply with all Local, State and Federal reporting requirements. Specifically, the Sub-recipient will be required to document, record, and report actual outcomes, as required by DEDO/OED-DWS, on a monthly basis. Timely, detailed, and accurate information on operations and performance is crucial to effective management of Denver's workforce development system. Therefore, funded agencies must capture and track (and enter to the respective system(s) of record) such information as requested by DEDO/OED-DWS, and supply reports of such data in requested formats, in a professional manner, at requested intervals. All WIOA registrant data must be entered into the Connecting Colorado System (Connecting Colorado), which is the data tracking and case management system used by WIOA programs in Colorado.
- 10.1.2 In addition to Connecting Colorado, DEDO/OED-DWS may require use of specific reporting or tracking systems, forms or other data management tools, and agencies are expected to have staff capable of executing against such requirements.

10.2 Customer Tracking Systems

- 10.2.1 The Sub-recipient shall use Connecting Colorado for WIOA customers. The system shall be used, to track all WIOA job seeker and employer clients, including contact information, demographic information, program eligibility, services provided, outcomes and case notes. This data system must be used in accordance with the DEDO/OED-DWS's written policies or State PGLs, as may be amended from time to time. Upon request by the Sub-recipient, the DEDO/OED-DWS will provide a unique user name for each Agency staff person that requires access to the data system to perform the Agency's duties under this Contract. Each staff person will be given the minimum access required to perform their specific role under the Contract. The user names and their associated passwords are confidential and must not be shared. Agency agrees to abide by and cause all staff users to abide by the City and County of Denver Data Confidentiality and Security Agreement.

10.3 Language Assistance

- 10.3.1 The Sub-recipient must have sufficient Spanish-speaking staff to serve the Counties' significant Spanish-speaking populations. Other language capacity appropriate to each AJC's location and potential youth job-seeker customer population will also be required. Additionally, key materials must be provided in Spanish and other appropriate languages in accordance with the DEDO/OED-DWS WIOA Language Assistance plan.

10.4 Accessibility to People with Disabilities

10.4.1 Title III of the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in "places of public accommodation" (businesses and non-profit agencies that serve the public) and "commercial facilities" (other businesses). Agencies who are not fully compliant with ADA are required to submit an "accessibility plan" outlining steps that need be taken by the leaseholder to become both programmatically and physically accessible and the planned implementation dates. This accessibility plan must meet the criteria set forth in the ADA. All WIOA program services and facilities are expected to be accessible to persons with disabilities. For the ADA Title III Technical Assistance Manual please visit: <http://www.usdoj.gov/crt/ada/taman3.html>

10.5 Equal Opportunity and Non-Discrimination

10.5.1 As a condition to this award of financial assistance from the Department of Labor under Title I of WIOA, the Sub-recipient assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- a) Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) Title I, which prohibits discrimination against all individuals in the United States on the basis of race, color religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;
- b) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color, and national origin;
- c) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- d) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- e) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs. Page 6 of 10 The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. The assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program and activity, and to all agreements the grant application makes to carry out the WOIA Title I-financially assisted program or activity. The Sub-recipient understands that the United States has the right to seek judicial enforcement of this assurance

10.5.2 Additionally, the Sub-recipient agrees to be in full compliance at all times with the Denver Workforce Services Equal Opportunity and Non-Discrimination policy.

10.6 Customer Complaint Procedures

10.6.1 DEDO/OED-DWS believes that customer complaints are opportunities to improve services. The primary goal of this complaint process is to address specific participant concerns, resolve the issues at hand in the most expedient manner, learn from the complaint and implement solutions throughout the entire system. The Sub-recipient must inform customers of the formal complaint process and work to resolve customer complaints in a timely fashion, as outlined in DEDO/OED-DWS's grievance policy.

10.7 Quality Control/Continuous Quality Improvement

10.7.1 The Sub-recipient is required to work with DEDO/OED-DWS to develop a coordinated Monitoring and Review process or quality control plan that ensures that 100% of new WIOA OSY participant case files are reviewed on a quarterly basis.

10.7.1.1 The Sub-recipient's quality control plan shall include, but not be limited to, the following:

1. A monitoring system covering the elements of work performance to be monitored, either on a scheduled or unscheduled basis
2. the methods to be used
3. frequency of monitoring
4. the format and content of records and reports to be generated
5. the title(s) of the individual(s) who will perform the monitoring
6. the method for identifying and preventing deficiencies in the quality of services performed before the level of performance can become unsatisfactory
7. the administrative procedures to be followed for reporting to DEDO/OED-DWS and for responding to operational problems or complaints concerning work performance, qualifications, or other complaints about Operator personnel details on all corrective action(s) taken.

10.7.2 The Sub-recipient is required to respond to all QA requests and error reports in a timely manner and ensure that all identified errors are corrected, if possible within the designated timeframe. Overall, the Sub-recipient shall ensure that all WIOA enrollments are in full compliance with Federal, State and Local regulations and policies.

10.7.3 The DEDO/OED-DWS strives to deliver high quality services throughout the system. The Sub-recipient shall solicit customer feedback on a regular basis through satisfaction surveys, focus groups and other venues to assess and improve service quality.

10.7.3.1 The Sub-recipient is expected to solicit customer feedback, analyze results, and identify areas for quality improvement. The DEDO/OED-DWS will be exploring ways to improve services

and solicit feedback from its job seeker and business customers

10.7.4 The Sub-recipient shall participate in associated trainings, evaluation processes, and activities and implement processes that improve the quality of services provided to customers.

10.8 Meetings and Trainings

10.8.1 The Sub-recipient shall ensure appropriate staff representation at a variety of meetings and training sessions. These include, but are not limited to, monthly and quarterly meetings that require director or manager participation, and trainings likely to include many, if not all, of the staff. The Sub-recipient shall meet no less than quarterly with the DEDO/OED-DWS to review progress toward planned versus actual benchmarks.

10.9 Payroll and Wage Rate Policy

10.9.1 The Sub-recipient shall subcontract with third party vendor who will be solely responsible for administering payroll services as the **Employer of Record**; responsibilities to include the enforcement of all process and procedure in place for payroll, taxes, and worker's compensation coverage for program participants. Therefore, if the Sub-recipient plans to provide paid internships, work experiences, or other allowable compensated activities, these costs must be included as part of the contract budget. All participants enrolled in wage-paid activities shall not be paid less than the highest minimum wage under the Fair Labor Standard Act and Article XVIII, Section 15, of the Colorado Constitution or as specified in local policy

10.10 Participation in Studies and Initiatives

10.10.1 The Sub-recipient shall participate in studies and initiatives as determined by DOL, CDLE or the DEDO/OED-DWS. This may include participation in aspects such as strategic planning sessions and other evaluation technical assistance provided by DEDO/OED-DWS or external evaluation entities

10.11 Communications and Signage

10.11.1 The Sub-recipient and the AJCs are considered arms of Denver's workforce development system, much like branches or franchises of a corporation. As such, the Sub-recipient must adhere to all requirements and standards related to physical signage where WIOA services are provided including EEO information, logos; publications; standard language in WIOA-related communications; and any other signage or communications requirements established by the DEDO/OED-DWS. The Sub-recipient must also adhere to all requirements and standards related to physical and electronic marketing, per the guidelines of the DEDO/OED-DWS Marketing Division.

- 10.11.1.1 Specifically, all print or electronic collateral that promotes any programs/services provided under this contract must adhere to the following:
- a) Include the Denver Workforce Services logo as the primary and most prominent entity responsible for the program/service;
 - b) Include the wording, [Sub-recipient] is a Sub-recipient for the City and County of Denver," regardless of whether the Sub-recipient's name appears in the collateral; and
 - c) Include the American Job Center logo.
 - d) Include the required EEO language: {Insert Program/Service Name here} is an [Equal Opportunity](#) employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Please dial 7-1-1 or 1-800-659-2656 to use the TTY service Relay Colorado.
- 10.11.1.2 Further details regarding these three requirements, as well as important guidelines regarding branding and messaging, will be provided by Denver Workforce Services, both in writing and electronically.
- 10.11.1.3 All collateral and external communications which shall be used with the public or any community partners must be submitted to Denver Workforce Services in advance for approval prior to display or distribution.
- 10.11.1.4 Social media postings may be exempt from the above logo requirements but must be approved in advance by Denver Workforce Services.

10.12 Technology Requirements

The Sub-recipient will need to match their organization's technological capacity to DEDO/OED-DWS's minimal requirements. Any contractor connecting with Denver City IT must also comply with Denver's requirements that at minimum include VPN and background checks and annual Cyber Security Training.

- 10.12.1 All Computers at a minimum must have high speed internet access, Window 7 Professional (SP1) or higher, Internet Explorer v 11 or higher, a graphics card that can support 1024x768. Security specifications must include: 1) automatic operating system upgrades, 2) firewall protection, 3) automatic virus upgrades, and 4) anti-spyware software.

10.13 Privacy and Confidentiality

10.13.1 The Sub-recipient One-Stop Sub-recipient must adhere to the DEDO Personally Identifiable Information policy to ensure the proper use of data and demonstrate that controls are sufficient to prevent identity theft, fraud and abuse as well as maintain a sophisticated and secure technology structure. These requirements must cover, at a minimum, the following: Participant eligibility documentation; Program participant records, including all services provided, and costs expended per participant; Customers' records, including participant data forms, verification/documentation items, assessments tests and results, and documentation of outcomes; Protection of personal and confidential customer information, including protected health information (HIPAA); Memoranda of Understanding (MOUs) between partner programs to share program, participant, and financial data that adhere to federal, state, and local privacy standards. In addition, the Sub-recipient will require all program participants to sign a release of information that includes an explanation of the level and type of access, as well as restrictions on the use of the participant's data.

10.14 Documentation Management and Retention

10.14.1 DEDO/OED-DWS is moving toward a paperless documentation system. Until that time, the Sub-recipient will maintain both hard and electronic copies of customer files in compliance with applicable regulations. The Sub-recipient will be responsible for working with DEDO/OED-DWS to fully implement paperless record keeping for all WIOA participants. The Sub-recipient must ensure documents are legibly imaged to a prescribed file management and document imaging system. The Sub-recipient must maintain program, participant, and financial records for seven years from completion of services in accordance with the City and County of Denver file retention policy. The Sub-recipient shall develop procedures that ensure the proper use of data and demonstrate that controls are sufficient to prevent identity theft, fraud and abuse as well as maintain a sophisticated and secure technology structure.

**WIOA Out-of-School Budget Narrative PY19
Ability Connection Colorado, Inc.
June 1, 2019 through June 30, 2020**

A. Personnel: List each position by title, as outlined in the Cost Allocation Plan (Budget) Spreadsheet. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization and match the figures provided in the Budget Spreadsheet.

Name/Position Computation Cost

RAMP Coordinator:

Provides primary support for the programs, runs sessions, works with mentors, job placement team and community to ensure all aspects of the program are running smoothly.

Position 1: Salary at \$54,000 x 9.26% of salary = \$5,000

Position 2: Salary at \$54,000 x 9.55% of salary = \$5,156.00

Position 3: Salary at \$52,000 x 96.15% of salary = \$50,000

Position 4: Salary at \$52,000 x 96.15% of salary = \$50,000

Job Placement Consultants:

3 Positions:

1. 70% dedicated to the grant at a cost of \$35,000
2. 80% dedicated to the grant at a cost of \$40,000
3. 90% dedicated to the grant at a cost of \$45,000

RAMP Support Staff:

Provides data entry, mentor recruitment and support and community outreach and marketing support

Salary of \$28,000 at 86% to the grant = \$24,127

Direct of Programs for Employment Works:

Provides general oversight of program, hires and manages staff, provides quality control.

Salary of \$72,000 at 31% to the grant = \$21,200

Work Incentive Coordinators (x 3):

Provides Work Incentive counseling to youth with disabilities', makes referral to agency for accommodation and resource support and provides financial education support to all youth.

Work Incentive Coordinator \$55,000x27% of time spent = \$15,000

Work Incentive Coordinator \$55,000x27% of time spent = \$15,000

Work Incentive Coordinator \$55,000x18.18% of time spent = \$10,000

TOTAL SALARY COST: \$ 315,483.25

B. Fringe Benefits: Fringe benefits should be based on actual known costs or an established formula. Fringe benefits expenses are only for the personnel listed in budget category (A) and only for the percentage of time devoted to the project as described above and in the Budget Spreadsheet. Below is a list of common benefit expenses. Include all benefits your agency provides employees if more are offered than those listed below.

Name/Position Computation Cost

\$64,320 (22.84% of Personnel costs) include, FICA, SIT, FUTA, Health Insurance, Dental, Vision, Workers Compensation, etc. etc.

TOTAL FRINGE BENEFITS: \$ 64,320

TOTAL PERSONNEL COST: \$ 379,803.25

NON PERSONNEL BUDGET CATEGORIES

C. Office Expenses: List items by type (office supplies, postage, copying paper, and other expendable items such as books, handheld tape recorders) and show the basis for computation. Generally, supplies include any materials that are expendable or consumed during the course of the project.

<u>Item</u>	<u>Computation</u>	<u>Cost</u>
Supplies, Paper, Pens, Marketing Materials	\$110 per month x12 months	\$1,320
Updated website support	\$150 per month x 12 months	\$1,800
New Computers	800 x 5	\$4,000

TOTAL SUPPLIES COSTS: \$ 7,120

D. Communication: List items by type (cell phones, landlines, internet, etc.) and show the basis for computation.

<u>Item</u>	<u>Computation</u>	<u>Cost</u>
5 cell phones for RAMP Coordinators	40x5=200x12	\$2,400

TOTAL COMMUNICATION COSTS: \$ 2,400

E. Insurance: Itemize insurance expenses of project and include justification. Estimate for additional coverage for youth

TOTAL INSURANCE COSTS: \$ 6,000

F. Travel Staff: Itemize travel expenses of project personnel by purpose (e.g., staff to training, field interviews, advisory group meeting, etc.). Show the basis of computation (e.g., six people to 3-day training at \$X airfare, \$X lodging, \$X subsistence). If the application includes putting on training, travel and meals for trainees should be listed separately from travel and meals of the applicant's staff. Show the number of trainees and unit costs involved. Identify the location of travel, if known. Indicate source of Travel Policies applied. Applicant or Federal Travel Regulations.

Note: Only travel of employees should be included in this category. Travel of partners or volunteers should be included in the “consultants/contracts” category.

<u>Location</u>	<u>Item</u>	<u>Computation</u>	<u>Cost</u>
Location 1	Airfare/Lodging	\$1,125 x 2 people	\$2,250

Purpose of Travel: Local Mileage

Staff Travel and mileage at 45 cents per mile at \$150.00 x5 per year= \$750

TOTAL TRAVEL COSTS: \$ 3,000

G. Other Direct Training and Educational Materials: List training materials used by the program, employee training by type and purpose.

<u>Item</u>	<u>Cost</u>
Career Assessment Survey	\$800
Ramp Curriculum	\$2,700
Direct Training Cost	\$36,750

TOTAL Other Direct Training and Education COSTS: \$ 40,250

H. Meetings/Events:

Meeting and Event space rental as needed-\$600.00 x 2, includes career fairs, youth networking, resource events at ACCO for youth specific career interests.

TOTAL MEETING/EVENT COSTS: \$ 1,200

I. Professional Services: For each Professional Services enter the name, service to be provided, hourly or daily fee (8-hour day), and estimated time on the project. Indicate whether applicant's formal, written Procurement Policy or the Federal Acquisition Regulations are followed.

Payroll processor (ADP) fees for Youth Payroll/Work experience

TOTAL PROFESSIONAL SERVICES COST: \$ 14,140

O. Other Direct Expenses: List items (e.g., reproduction, telephone, janitorial or security services, and investigative or confidential funds) by major type and the basis of the computation.

Youth Supportive Services =\$8,000

Support cost as needed for youth in program as directly related to career and resource program support for individual youth.

Mentee Incentive =\$8,500

Gift Cards for goal completion, food, games, @ \$85 per 100 youth.

Work Experience = \$ 206,250

130 youth at \$1,601.92 per youth for Work Experience.

TOTAL OTHER DIRECT COSTS: \$ 345,196.75

P. Indirect Costs: Indirect costs are allowed only if the applicant has a federally-approved indirect cost rate and if permitted by the grant program. A copy of the rate approval (a fully executed, negotiated agreement) must be attached as well as a full description of which direct costs are used to calculate indirect costs.

<u>Description</u>	<u>Computation</u>	<u>Cost</u>
Agency cost approved negotiated indirect cost is 21.7% which amounts to \$169,182 of the \$779,640 Agency total. The total indirect cost of Personnel and Fringe is \$379,803.25, 21.7% of that cost amounts to \$82,417 of which ACCO is only charging \$48,336.75 to DEDO. ACCO is leveraging \$120,845 in indirect cost through other sources in order to provide more direct services to the client.		

21.7% of 779,640=\$169,182 (Total Agency Cost)

21.7% of \$379,803.25=\$82,417(Total Project Cost)

OSY cost represent 58% of the \$82,417 OSY total project cost @ \$48,336.75

TOTAL OSY INDIRECT COSTS: \$ 48,336.75

Total Amount Requested from OED: \$725,000



Program Budget and Cost Allocation Plan Summary

Contractor Name:
Project :
Contract Dates:

Ability Connection Colorado
WIOA- Out-of-School Youth Program
6/1/2019 to 6/30/2020
rn to OED Project Specialist: Lisa Valdez

Program Year: 2019

Budget Category	Agency Total (All Funding Sources)		Project Costs OED Funding OSY 201100000		Total Project Costs requested from OED		Other City & County of Denver Funding (Add applicable funding as necessary)		Other Federal Funding		Other Non-Federal Funding		Agency Total		
	Total	Amount	%	Subtotal	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Personnel: Name and Job Title															
RAMP Coordinator/Amber Galusha	\$ 54,000.00	\$ 5,000.00	9.26%	5,000	9.26%		0.00%		0.00%	49,000	90.74%	54,000	100.00%		
RAMP Coordinator/Kelsey Atkinson	\$ 54,000.00	\$ 5,156.25	9.55%	5,156	9.55%		0.00%		0.00%	48,844	90.45%	54,000	100.00%		
RAMP Coordinator x 2/TBA	\$ 104,000.00	\$ 100,000.00	96.15%	100,000	96.15%		0.00%		0.00%	4,000	3.85%	104,000	100.00%		
Job Placement Consultant/Tina Naylor	\$ 50,000.00	\$ 35,000.00	70.00%	35,000	70.00%		0.00%		0.00%	15,000	30.00%	50,000	100.00%		
Job Placement Consultant/Carmella Trujillo	\$ 50,000.00	\$ 40,000.00	80.00%	40,000	80.00%		0.00%		0.00%	10,000	20.00%	50,000	100.00%		
Job placement Consultant/Name TBA	\$ 50,000.00	\$ 45,000.00	90.00%	45,000	90.00%		0.00%		0.00%	5,000	10.00%	50,000	100.00%		
TBA RAMP Support Staff/TBA	\$ 28,000.00	\$ 24,127.00	86.17%	24,127	86.17%		0.00%		0.00%	3,873	13.83%	28,000	100.00%		
Director of Program/Tracie Hammons	\$ 72,000.00	\$ 21,200.00	29.44%	21,200	29.44%		0.00%		0.00%	50,800	70.56%	72,000	100.00%		
Work Incentive Coordinator/Financial Literacy/Terry McGarry	\$ 55,000.00	\$ 15,000.00	27.27%	15,000	27.27%		0.00%		0.00%	40,000	72.73%	55,000	100.00%		
Work Incentive Coordinator/Financial Literacy/Julie Taylor	\$ 55,000.00	\$ 15,000.00	27.27%	15,000	27.27%		0.00%		0.00%	40,000	72.73%	55,000	100.00%		
Work Incentive Coordinator/Financial Literacy/Harold Lasso	\$ 55,000.00	\$ 10,000.00	18.18%	10,000	18.18%		0.00%		0.00%	45,000	81.82%	55,000	100.00%		
							0.00%		0.00%	-	0.00%	-	0.00%		
Total Salary:	\$ 627,000.00	\$ 315,483.25	50.32%	315,483	50.32%	-	0.00%	-	0.00%	311,517	49.68%	627,000	100.00%		
Fringes	\$ 152,640.00	\$ 64,320.00	42.14%	64,320	42.14%		0.00%		0.00%	88,320	57.86%	152,640	100.00%		
Personnel Total:	\$ 779,640.00	\$ 379,803.25	48.72%	379,803	48.72%	-	0.00%	-	0.00%	399,837	51.28%	779,640	100.00%		
Non-Personnel:	Total	Amount	%	Subtotal	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Office Expenses, Supplies & Equipment	\$ 40,000.00	\$ 7,120.00	17.80%	7,120	17.80%		0.00%		0.00%	32,880.00	82.20%	40,000	100.00%		
Communication	\$ 10,953.00	\$ 2,400.00	21.91%	2,400	21.91%		0.00%		0.00%	8,553.00	78.09%	10,953	100.00%		
Insurance	\$ 142,000.00	\$ 6,000.00	4.23%	6,000	4.23%		0.00%		0.00%	136,000.00	95.77%	142,000	100.00%		
Travel-Staff	\$ 15,000.00	\$ 3,000.00	20.00%	3,000	20.00%		0.00%		0.00%	12,000.00	80.00%	15,000	100.00%		
Equipment rental	\$ -	\$ -	#DIV/0!	-	#DIV/0!		#DIV/0!		#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Facilities	\$ -	\$ -	#DIV/0!	-	#DIV/0!		#DIV/0!		#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Youth Direct Training and Educational	\$ 40,250.00	\$ 40,250.00	100.00%	40,250	100.00%		0.00%		0.00%	-	0.00%	40,250	100.00%		
Meetings/Events	\$ 10,000.00	\$ 1,200.00	12.00%	1,200	12.00%		0.00%		0.00%	8,800.00	88.00%	10,000	100.00%		
Professional Services - (ADP, Payroll Processor for Youth Payroll)	\$ 75,000.00	\$ 14,140.00	18.85%	14,140	18.85%		0.00%		0.00%	60,860.00	80.00%	75,000	100.00%		
Professional Services - (Specify; ie., Legal)				-						-		-			
Professional Services - (Specify; ie., Accountant)				-						-		-			
Subcontractor (Specify)				-						-		-			
Subcontractor (Specify)				-						-		-			
Subcontractor (Specify)				-						-		-			
Other Direct Expense Youth Supportive Services	\$ 8,000.00	\$ 8,000.00	100.00%	8,000	100.00%		0.00%		0.00%	-	0.00%	8,000	100.00%		
Other Direct Expense mentee incentives	\$ 8,500.00	\$ 8,500.00	100.00%	8,500	100.00%		0.00%		0.00%	-	0.00%	8,500	100.00%		
Other Direct Expense Youth Payroll / work experience)	\$ 206,250.00	\$ 206,250.00	100.00%	206,250	100.00%		0.00%		0.00%	-	0.00%	206,250	100.00%		
Indirect Costs (total agency line 25x.21.7, project amount line 25C)	\$ 169,182.00	\$ 48,336.75	28.57%	48,337	28.57%		0.00%		0.00%	120,845.25	71.43%	169,182	100.00%		
Total Non-Personnel	\$ 725,135.00	\$ 345,196.75	47.60%	345,197	47.60%	-	0.00%	-	0.00%	379,938	52.40%	725,135	100.00%		
Total Project Cost	\$ 1,504,775.00	\$ 725,000.00	48.18%	725,000	48.18%	-	0.00%	-	0.00%	779,775	51.82%	1,504,775	100.00%		
Program Income (through funded activities)				-											
Non-Project:	Total	Amount	%	Subtotal	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Personnel Costs:	\$ -	\$ -	#DIV/0!	-	#DIV/0!		#DIV/0!		#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Non-Personnel Costs:	\$ -	\$ -	#DIV/0!	-	#DIV/0!		#DIV/0!		#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Other (Specify):	\$ -	\$ -	#DIV/0!	-	#DIV/0!		#DIV/0!		#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Total Non-Project Cost	\$ -	\$ -	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!		
Grand Total	\$ 1,504,775.00	\$ 725,000.00	48%	725,000	48.18%	-	0.00%	-	0.00%	779,775	51.82%	1,504,775	100.00%		

EXHIBIT C

FISCAL SYSTEM DESIGN:

This section is designed to provide the financial and administrative requirements applicable to federally funded programs function as required partners in the One-Stop system. It contains the common requirements for grants and financial management found in OMB Uniform Guidance 2 CFR §200 and DOL Exceptions 2CFR §2900.

1.1 Cost Principles, Allowable Costs and Unallowable Costs

- 1.1.1 Costs must be necessary and reasonable. Any cost charge to a grant must be necessary and reasonable for the proper and efficient performance and administration of the grant. A grantee or subawardee is required to exercise sound business practices and to comply with its procedures for charging costs.
- 1.1.2 *Costs must be allocable:* A grantee may charge costs to the grant if those costs are clearly identifiable as benefiting the grant program. Costs charged to the grant should benefit only the grant program, not other programs or activities. In order to be allocable, a cost must be treated consistently with like costs and incurred specifically for the program being charged. Shared costs must benefit both the ETA grant and other work and be distributed in reasonable proportion to the benefits received.
- 1.1.3 *Costs must be authorized or not prohibited under Federal, State, or local laws or regulations:* Costs incurred must not be prohibited by any Federal, State, or local law.
- 1.1.4 *Costs must receive consistent treatment by a grantee:* A grantee must treat a cost uniformly across program elements and from year to year. Costs that are indirect for some programs cannot be considered direct ETA grant costs.
- 1.1.5 *Costs must not be used to meet matching or cost-sharing requirements:* A grantee may not use federally funded costs, whether direct or indirect, as match or to meet matching fund requirements unless specifically authorized by law.
- 1.1.6 *Costs must be adequately documented:* A grantee must document all costs in a manner consistent with GAAP. Examples include retaining evidence of competitive bidding for services or supplies, adequate time records for employees who charge time against the grant, invoices, receipts, purchase orders, etc.
- 1.1.7 *Costs must conform to ETA grant exclusions and limitations:* A grantee or sub-grantee may not charge a cost to the grant that is unallowable per the grant regulations or the cost limitations specified in the regulations.

2.1 Cash Management

Disbursements shall be processed through the Office of Economic Development (OED) - Financial Management Unit (FMU) and the City and County of Denver's Department of Finance.

- 2.1.1 The method of payment to the Contractor by OED shall be in accordance with established FMU procedures for line-item reimbursements. The Contractor must submit expenses to OED on or before the last day of each month for the previous month's activity.
- 2.1.2 Voucher requests for reimbursement of costs should be submitted on a regular and timely basis in accordance with OED policies. Vouchers should be submitted within thirty (30) days of the actual service, expenditure or payment of expense.

- 2.1.3 The Contractor shall submit the final voucher for reimbursement no later than thirty (30) days after the end of the contract period.
- 2.1.4 The Contractor shall be reimbursed for services provided under this Agreement according to the approved line-item reimbursement budget within the Scope of Work.
- 2.1.5 The standardized OED “Expense Certification Form” should be included with each reimbursement or draw-down request.

3.1 Expense Guidelines

3.1.1 Payroll

3.1.1.1 A summary sheet should be included to detail the gross salary of the employee, amount of the salary to be reimbursed, the name of the employee, and the position of the employee. If the employee is reimbursed only partially by this contract, the amount of salary billed under other contracts with the City or other organizations should be shown on the timesheet as described below. Two items are needed for verification of payroll: (1) the amount of time worked by the employee for this pay period; and (2) the amount of salary paid to the employee, including information on payroll deductions.

3.1.1.2 The amount of time worked will be verified with timesheets. The timesheets must include the actual hours worked under the terms of this contract, and the actual amount of time worked under other programs. The total hours worked during the period must reflect all actual hours worked under all programs including leave time. The employee’s name, position, and signature, as well as a signature by an appropriate supervisor, or executive director, must be included on the timesheets. If the timesheet submitted indicates that the employee provided services payable under this contract for a portion of the total time worked, then the amount of reimbursement requested must be calculated and documented in the monthly reimbursement request.

3.1.1.3 A payroll register or payroll ledger from the accounting system will verify the amount of salary. Copies of paychecks are acceptable if they include the gross pay and deductions.

3.1.2 Fringe Benefits

3.1.2.2 Fringe benefits paid by the employer can be requested by applying the FICA match of 7.65 percent to the gross salary paid under this contract. Fringe benefits may also include medical plans, retirement plans, worker’s compensation, and unemployment insurance. Fringe benefits that exceed the FICA match may be documented by 1) a breakdown of how the fringe benefit percentage was determined prior to first draw request; or, 2) by submitting actual invoices for the fringe benefits. If medical insurance premiums are part of the estimates in item #1, one-time documentation of these costs will be required with the breakdown. Payroll taxes may be questioned if they appear to be higher than usual.

3.1.3 Food Purchases – will not be reimbursed.

- 3.1.4 Administration and Overhead Cost - Other non-personnel line items, such as administration, or overhead need invoices, and an allocation to this program documented in the draw request. An indirect cost rate can be applied if the Contractor has an approved indirect cost allocation plan. The approved indirect cost rate must be submitted to and approved by OED.

4.1 Per Diem and Travel Expense Limitation

- 4.1.1 Service providers are required to develop and maintain policies regarding compensation for staff and participant travel costs. Meals, lodging, rental cars, airfare, mileage for employee-owned cars, and other travel expenses may be paid for staff and participants who travel as part of their job, training activity or grant purpose.
- 4.1.2 Documentation of the purpose and cost of travel must be maintained. The documentation should include the time of travel in order to compute and verify allowed per diem amounts. No employee may be reimbursed for expenses incurred in going to and from work. Lunches and/or dinners in your home office city outside the scope of an agenda are prohibited.

5.1 Procurement, Inventory and Disposal

- 5.1.1 Service providers are delegated authority to make purchases of equipment, supplies and services as described below. Service providers are responsible for ensuring the vendors selected are not debarred or suspended by checking the information on the following federal government website: <http://epls.arnet.gov>.
- 5.1.1.1 *Micro Purchases* – under \$3,000. All service providers may purchase items with a value of less than \$3,000 using any open and fair procurement method that best meets the agency’s needs. The method should assist the service provider in obtaining a high quality product for a fair price. Documentation should be maintained of the need for the item and its benefit to the program.
- 5.1.1.2 *Limited Solicitation for Services* - Purchases between \$3,001 to \$25,000. Service providers must maintain a fair and open procurement process meeting the criteria for small purchases. This requires a documented solicitation from a minimum of three viable sources, if available, either orally or in writing. In addition, the service provider must obtain and document prior approval from the Bureau for the purchase, and maintain documentation of the following: bid and rating criteria; advertising and public notice of the bid opportunity; responses received; and reason for the decision.
- 5.1.1.3 *Formal Competition* - Large Purchases over \$25,000 for services and \$50,000 for supplies. Large purchases are typically included in the provider agreement as part of the major purpose of the provider agreement, although this is not a requirement. Large purchases are subject to all the requirements of medium purchases, and in addition must use a formal, closed-bid procurement process. Service providers must obtain and document prior approval from OED.
- 5.1.1.4 *Inventory*- Service providers must maintain physical control of the asset to ensure adequate safeguards are in place to prevent loss, damage or

theft of property. Adequate maintenance procedures must be in place to keep the property in good condition.

- 5.1.1.5 *Disposition Service* - Providers may dispose of equipment and supplies according to agency policy when the fair market value of the equipment unit, or the aggregate fair market value of the supplies, is less than \$5,000.

6.1 Program Income

- 6.1.1 Program income includes, without limitation, income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of commodities or items fabricated under a contract agreement, and from payments of principal and interest on loans made with contract funds.
- 6.1.2 Program income may be deducted from total allowable costs to determine net allowable costs and may be used for current reimbursable costs under the terms of this contract. Program income which was not anticipated at the time of the award may be used to reduce the award contribution rather than to increase the funds committed to the project. ALL PROGRAM INCOME GENERATED DURING ANY GIVEN PERIOD SUBMITTED FOR PAYMENT SHALL BE DOCUMENTED ON THE VOUCHER REQUEST.
- 6.1.3 The Contractor, at the end of the program, may be required to remit to the City all or a part of any program income balances (including investments thereof) held by the Contractor (except AS APPROVED IN WRITING BY OED, INCLUDING those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs), unless otherwise directed in writing by OED.

7.1 General Reimbursement Requirements

- 7.1.1 Denver Workforce Services requires monthly invoicing of expenditures related to this contract. Upon execution, the Contractor must submit the monthly invoices. The monthly invoice must be submitted by the 20th day after month end.
- 7.1.2 *Invoices:* All non-personnel expenses need dated and readable invoices. The invoices must be from a vendor separate from the Contractor, and must state what goods or services were provided and the delivery address. Verification that the goods or services were received should also be submitted, this may take the form of a receiving document or packing slips, signed and dated by the individual receiving the good or service. Copies of checks written by the Contractor, or documentation of payment such as an accounts payable ledger which includes the check number shall be submitted to verify that the goods or services are on a reimbursement basis.

8.1 Financial Management Systems

The Contractor must maintain financial systems that meet the following standards:

- 8.1.1 Financial reporting must be accurate, current, and provide a complete disclosure of the financial results of financially assisted activities and be made in accordance with federal financial reporting requirements.
- 8.1.2 Accounting records must be maintained which adequately identify the source and application of the funds provided for financially assisted activities. The records must contain information pertaining to contracts and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records shall provide accurate, separate, and complete disclosure of fund status.
- 8.1.3 Effective internal controls and accountability must be maintained for all contract cash, real and personal property, and other assets. Adequate safeguards must be provided on all property and it must be assured that it is used solely for authorized purposes.
- 8.1.4 Actual expenditures or outlays must be compared with budgeted amounts and financial information must be related to performance or productivity data, including the development of cost information whenever appropriate or specifically required.
- 8.1.5 Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Contractor will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.
- 8.1.6 The Contractor must properly report to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.
- 8.1.7 A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.
- 8.1.8 The Contractor shall participate, when applicable, in OED provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

9.1 Audit Requirements

- 9.1.1 The Service Provider is responsible for independent annual audits of its Provider Agreement and costs associated therewith. If a Service Provider qualifies under the Single Audit Act amendments of 1996, the Service Provider shall have an audit conducted in accordance with Office of Management and Budget (OMB) Uniform Guidance §2 CFR Part 200 Subpart F and the applicable audit standards set forth

in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

- 9.1.2 Any audit findings in connection with this Provider Agreement shall be resolved with the Grantor within 180 days of the publication of the final audit report. The Grantor may, in its sole discretion, also require additional audits. The Service Provider will pay these additional costs.
- 9.1.3 Responsibility for audit costs and for maintaining complete financial records remains with the service provider.
- 9.1.4 Service providers having a single audit conducted are to inform the auditing firm that audits are to be made in accordance with the:
- *Generally Accepted Governmental Auditing Standards (GAGAS)*
 - *OMB Uniform Guidance 2 CFR §200 Subpart F*
 - *AICPA Generally Accepted Auditing Standards*

10.1 Budget Modification Requests

- 10.1.1. All modification to the budget require submittal by Contractor of a written justification and the new budget documents.
- 10.1.2 The Contractor understands that any budget modification requests under this Agreement must be approved by OED prior to the last Quarter of the Contract Period, unless waived in writing by the OED Director.

11.1 Bonding

- 11.1.1 OED may require adequate fidelity bond coverage, in accordance with §24 C.F.R. 84.21, where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.

12.1 Records Retention

- 12.1.1 The Contractor must retain for seven (7) years financial records pertaining to the contract award. The retention period for the records of each fund will start on the day the single or last expenditure report for the period, except as otherwise noted, was submitted to the awarding agency.
- 12.1.2 The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.
- 12.1.3 The Contractor must retain for seven (7) years financial records pertaining to the contract award. The retention period for the records of each fund will start on the day the single or last expenditure report for the period, except as otherwise noted, was submitted to the awarding agency.

12.1.4 The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

13.1 Contract Close-Out

13.1.1 All Contractors are responsible for completing required OED contract close-out forms and submitting these forms to their appropriate OED Contract Specialist within thirty (30) days after the Agreement end date, or sooner if required by OED in writing.

13.1.2 Contract close out forms will be provided to the Contractor by OED within thirty (30) days prior to end of contract.

13.1.3 OED will close out the award when it determines that all applicable administrative and all required work of the contract have been completed. **If Contractor fails to perform in accordance with this Agreement,** OED reserves the right to unilaterally close out a contract, “unilaterally close” means that no additional money may be expended against the contract.

14.1 Collection of Amounts Due

14.1.1 Any funds paid to a Contractor in excess of the amount to which the Contractor is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government and the City. If not paid within a reasonable period after demand, OED may 1) Make an administrative offset against other requests for reimbursements, 2) other action permitted by law.

EXHIBIT D - GENERAL CONDITIONS
ARTICLE 1
PROGRAM ADMINISTRATION

SEC. 101. Records Maintenance, Performance Monitoring and Audits.

A. The Contractor shall maintain a complete file of all records, notes, reports, communications, documents and other materials (“Program Records”) that pertain to the operation of the program/project or the delivery of services under this Agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. Program Records shall be maintained according to generally accepted account principles and shall be easily separable from other Contractor records. These records shall also be maintained in accordance with requirements prescribed by the Federal or State Government or the City with respect to all matters covered by the Contract.

B. Except for disclosures to the City as required in this Agreement and to the extent such disclosures are permitted by applicable law, the Contractor shall maintain the confidentiality of any and all confidential information acquired or maintained by the Contractor under this Agreement. The Contractor shall have written policies governing access to, duplication and dissemination of, all such information and advise its employees and agents, if any, that they are subject to these confidentiality requirements or as may be required by applicable law.

C. The Contractor shall obtain on behalf of the City, the State Government or the Federal Government, any all necessary consent forms from participants receiving services under this Agreement authorizing the release of any and all Program Records to said entities for contract and performance monitoring purposes only. The City shall protect the confidentiality of Program Records received from the Contractor.

D. The Contractor authorizes the State, the federal government or their designee, to perform audits and/or inspections of its records, at any reasonable time to assure compliance with the state or federal government’s laws, regulations, rules, requirements and conditions governing this Agreement and to monitor and/or evaluate all activities of the Contractor under this Agreement. Monitoring and/or evaluation may consist of internal evaluation procedures, reexamination of program data, special analysis, on-site verification, formal audit examinations, or any other procedures as deemed reasonable and relevant by the City. All such monitoring shall be performed in a manner that will not unduly interfere with the Contractor’s work under this Agreement. Any amounts improperly paid to the Contractor shall be immediately return to the City or may be recovered in accordance with other remedies.

SEC. 102. Reports and Information. At such times and in such forms as the Federal, or the State Government or the City may require, the Contractor shall furnish to the Federal, or the State Government or the City, such statements, records, reports, data and information, as the Federal or the State Government or the City may request pertaining to matters covered by the Agreement, or related to implementation of the Agreement.

SEC. 103. Federal Governments Requirements. Unearned payments under the Contract may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the Federal Government at any time; or if any entitlement to the City under Federal Law is suspended or terminated.

SEC. 104. Accounting.

A. Records shall provide accurate, separate, and complete disclosure of fund status. Supportive documentation shall be provided for all disbursements. The Contractor will maintain auditable records - i.e., records must be current and traceable to the source documentation of unit transactions.

B. All accounting functions for the contract must be performed in the Metropolitan Denver Area as defined by the boundaries of the Standard Metropolitan Statistical Area, unless waived by the Office of Economic Development's Director of Workforce Development, (the Director).

C. Disbursements shall be processed through the City and County of Denver Controller's Office by the OED Financial Management Unit.

D. The Contractors shall maintain separate accountability for OED funds.

E. Proper reporting to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld shall be adhered to. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.

F. A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.

G. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Agreement shall be clearly identified and readily accessible.

SEC. 105. Vouchering Requirements.

A. In order to meet the Federal Government and/or State of Colorado requirements for current, auditable books at all times, it is required that all vouchers be submitted monthly to OED in order to be paid.

1. The first exception will be that expenses cannot be reimbursed until the funds under this contract have been encumbered.

2. The second exception will be that costs cannot be reimbursed until they total a minimum of \$15 unless it is a final payment voucher or the final voucher for the fiscal year (ending December 1)

B. No more than four (4) vouchers may be submitted per contract per month.

C. Agreements that start in one fiscal year and end in the subsequent fiscal year, are required to have all vouchers for the fiscal year be submitted correctly, within forty five (45) days of the Agreement end date, in order to be paid.

D. City and County of Denver Forms shall be used in back-up documents whenever required in the Voucher Processing Policy.

SEC. 106. Bonding. Every agency or employee who receives or deposits Federal Government and/or State of Colorado funds into program accounts or issues financial documents, checks or other instruments of payment for program costs shall be bonded to provide protection against loss. The amount of coverage shall be the highest advance received through check or drawdown during the contract period.

SEC. 107. Personnel.

A. The Contractor shall submit to OED their written agency personnel (including complaint and grievance procedures) and Equal Employment Opportunity (EEO) policies as required in OED's Policy Series and have such policies approved within thirty (30) days of the Agreement start date or the Agreement may be terminated.

B. The Contractor shall submit to the OED Contract Specialist a copy of the agency written personnel policies and procedures within thirty (30) days of the Agreement start date. The Contractor is responsible for providing OED with any written revisions to the personnel policy during the term of this Agreement.

SEC. 108. Contract Monitoring & Compliance With Applicable Audit Requirements.

A. The Contractor's performance may be reviewed monthly, or more often, by the appropriate operational unit at OED which has program management responsibility.

B. All reports submitted by the Contractor shall be utilized as part of the determination of Agreement success.

C. All reviews shall be conducted in accordance with internal OED procedures. Procedures will be available to the Contractor prior to any review.

D. The Contractor is subject to final program audit. The City Auditor reserves the right to select the audit firm. The Contractors shall provide all appropriate records to the auditing personnel. The Audit Guide will be the basis of the performance of the audit. The Contractor agrees to abide by the administrative procedures of OED regarding the resolution of audit exceptions.

E. The contractor is responsible for independent annual audits of its Agreement and costs associated therewith. If the Contractor qualifies under the Single Audit Act amendments of 1996, the Contractor shall have an audit conducted in accordance with Office of Management and Budget (OMB) Uniform Guidance 2 CFR Part 200 Subpart F and the applicable audit standards set forth in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States. Any audit findings in connection with this Provider Agreement shall be resolved with the Grantor within 180 days of the publication of the final audit report. The Grantor may, in its sole discretion, also require additional audits. The Service Provider will pay these additional costs.

SEC. 109. OED Equipment.

A. Contractors will be held accountable for all City property in their possession until relieved of that responsibility in accordance with terms established by OED's Financial Management Unit. Contractors shall be held responsible for reasonable care and control of all property in its possession, which shall include:

1. Marking with departmental decals or stencils all government property obtained through any government Employment and Training Administration grant, which includes all funds provided by OED;

2. Maintaining appropriate maintenance contracts for equipment;

3. Maintaining reasonable safeguards against theft; and

4. Contractors shall reimburse OED for the value of missing property in accordance with the OED Policy Series.

B. OED will conduct an annual property inventory which will involve a comparison and reconciliation of the latest OED inventory records with the actual physical property that exists (or is missing) at each contractor site.

SEC. 110. Advertisement and Public Notices. Contractors using radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other methods to attract Participants or employers into an OED funded activity shall first notify the appropriate OED staff prior to release or publication of this information. In any event, all announcements, etc., must include the following statement: "The funding source for this activity is the City and County of Denver, Office of Economic Development" in addition to including the required funding stream denotation as required.

SEC. 111. Assurances.

A. The Contractor, in operating programs funded under the Grant, further assures that it will administer its program under the Act in full compliance with safeguards against fraud and abuse as set forth in the Federal regulations.

B. The Contractor will comply with all Priority of Service for Veteran requirements, including that veterans and eligible spouses are given priority over noncovered persons for the receipt of employment, training, and placement services provided under a qualified job training program. See, https://www.colorado.gov/pacific/sites/default/files/PGL-VET-2014-02_Priority-of-Service-for-Veterans-change-1.pdf.

C. The Contractor will provide employment and training services to eligible individuals as set forth in applicable laws governing the programs and activities funded by this Agreement. For the Workforce Innovation and Opportunity Act, see requirements concerning individuals with a barrier to employment: displaced homemakers; low-income individuals; Indians, Alaska natives, and Native Hawaiians; individuals with disabilities, including youth who are individuals with disabilities; older individuals; ex-offenders; homeless individuals; youth who are in or have aged out of the foster care system; individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers; eligible migrant and seasonal farmworkers; individuals within two years of exhausting lifetime eligibility under part A of title IV of the Social Security Act; Single parents (including single pregnant women); long-term unemployed individuals; and such other groups as the Governor determines to have barriers to employment. <https://www.govinfo.gov/content/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf>

D. Nondiscrimination and equal opportunity under WIOA. Section 188 of WIOA and 29 CFR Part 38.

1. As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, and by its signature to the Agreement, the Contractor, as a grant subrecipient assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

a. Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity.

b. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin.

c. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities.

d. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and • Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

2. The Contractor also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

E. Other federal requirements. The Contractor will comply with the following federal laws, regulations, and executive order:

1. Executive Order 13160 Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and

SEC. 112. Charging of Fees.

- A. Contractors may not charge participants a fee for the placement of that Participant into an OED training or employment program.
- B. Contractors may not charge participants a fee for job referral or placement.

SEC. 113. Theft or embezzlement from employment and training funds; Improper Inducement, Obstruction of Investigations and other Criminal provisions.

- A. Under the law, a contracting agency and any member of its staff is criminally liable if s/he:
 - 1. Knowingly hires an ineligible individual;
 - 2. Embezzles, willfully misapplies, steals or obtains by fraud any of the monies, funds, assets or property which are the subject of the contract;
 - 3. By threat of procuring dismissal of any person from employment, induces any persons to give up money or things of value;
 - 4. Willfully obstructs or impedes an investigation or inquiry under Colorado Works Program Act (CWPA);
 - 5. Directly or indirectly provides any employment, position, compensation, contract, appointment or other benefit, provided for or made possible in whole or in part by CWPA funds to any person as consideration, or reward for any political action by or for the support or opposition to any candidate of any political party;
 - 6. Directly or indirectly knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or threat of denial of any employment or benefit funded under the Act.

**ARTICLE 2
DISBURSEMENTS AND ACCOUNTING**

SEC. 201. Charges Against Project Account.

- A. Payments under Reimbursement Contracts shall be made on actual costs incurred and supported by all necessary and appropriate documentation. Fee-for-Service contracts shall be reimbursed for documented services performed based on the negotiated rate.
- B. The City shall not reimburse or pay any expenditures, costs or payments that are inconsistent with the last approved budget; PROVIDED, HOWEVER, that said budget may be revised for more efficient and effective use of monies available under the Contract upon written request by the Contractor to the City and written approval thereof by the City.
- C. At any time or times prior to final payment under this Contract, the City may have the invoices and statements of cost audited. Each payment theretofore shall be subject to reduction for amounts included in the related invoice or voucher which are found by the City on the basis of such audit, not to constitute allowable costs. Any payment may be reduced for over-payment, or increased for under-payments, on preceding invoices or vouchers.
- D. After the City has accepted the services actually performed under the Contract, it may require the Contractor to prepare a summary of services and the value thereof, together with such other records, reports and data as the City may require. All prior approvals and payments shall be subject to correction in the final summary and payment; but in the absence of effort or manifest mistake, it shall be understood that all payments, when approved, shall be evidence of the services performed; PROVIDED, HOWEVER, that all payments made by the City to the Contractor shall be made subject to correction in

accordance with the audit findings of the City or the Federal Government of the Contractor's books and records relating to its costs and contributed services for the preparation or completion of the services and work under the Contract, and the Contractor shall promptly repay the City the amount that such payments exceed the total amount payable to the Contractor in accordance with the provisions of the Contract and as determined on the basis of such audit and inspection. From the total amount of the final payment, there shall be deducted first all previous payments made to the Contractor under the Contract; and second, all damages, ineligible costs under the Contract, and other charges properly chargeable to the Contractor and the balance, if any, shall be paid to the Contractor; PROVIDED, HOWEVER, that prior to the payment to the Contractor of the final payment, the Contractor shall first furnish the City evidence in affidavit form that all claims, liens or other obligations incurred by it and all of its subcontractors or agents in connection with the performance of the services have been properly paid and settled.

E. Prior to final payment under this Contract, the Contractor and each assignee under the Contract whose assignment is in effect at the time of the final payment under the Contract shall, within such time as the City may designate not to exceed sixty (60) days from the termination of the Contract for any reason whatsoever, execute and deliver as required by the City:

1. An assignment to the City in form and substance satisfactory to the City of refunds, rebates, credits and other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the City under the Contract; and

2. A release in such form as the City may prescribe, discharging the City, its officers, agents and employees from all liabilities, obligations and claims arising out of or under this Contract.

F. Contract funds remaining unspent by the Contractor at the termination of the Contract for any cause whatsoever shall be returned to the City within such time following the termination as the City may set. Interest shall accrue in the favor of the City at the rate of eight percent (8%) per annum on such funds thereafter.

SEC. 202. Method of Payment and Disbursements.

A. On a regular basis in the due course of conducting its business during the term of this Contract, based upon certain reports and records required by the City of the Contract, the City will approve the dollar value of services under the Contract completed by the Contractor during the preceding performance period. After approval by the City, these reports and records will serve as a basis for a partial payment by the City to the Contractor. The City may withhold the final ten percent (10%) of the money made available under the Contract pending the making of final settlement and final payment as set forth herein.

B. The Contractor shall request payment of the monies available under the Contract on such basis and in such amounts and at such times and under or subject to such conditions as the City may specify. The City agrees to establish a payment procedure that will provide funds in a timely and regular manner.

SEC. 203. Accounting Controls.

A. The Contractor shall assist the City, as necessary, in making an evaluation of the Contractor's internal control system, fidelity bonding coverage, accounting and report systems prior to any payment being made under this Contract. The Contractor shall assist the City as necessary in documenting the adequacy or inadequacy of said systems and in continual monitoring for accuracy of such systems, allowing the City and the Federal Government free and ready access to the plants or offices of the Contractor at reasonable times for on-site inspection and audit.

B. Accounting System. The Contractor will establish and maintain on a current basis for accounting of funds available under the Contract an accounting system in accordance with generally accepted accounting principles and standards.

C. Designation of Depository. The Contractor shall designate to the City a commercial bank which is a member of the Federal Deposit Insurance Corporation, acceptable to the City, to be the depository for the receipt of funds under the terms of the Contract. After the City has satisfied itself as to

the propriety of the account, it may deposit funds made available hereunder into said account. The commercial bank selected must fully insure and secure against loss continuously all funds on deposit in excess of the amount insured by a Federal or State Agency.

ARTICLE 3 MISCELLANEOUS

SEC. 301. Personnel.

A. The Contractor represents that it has, or will secure with funds available for same under this Agreement, all personnel required in performing its services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

B. All of the services required hereunder of the Contractor will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

SEC. 302. Sales and Use Taxes. Nothing herein shall be deemed to exempt the Contractor or any subcontractor from payment of the Sales Tax or the Use Tax of the City. In accordance with applicable State and Local law, the Contractor will pay, and require subcontractors to pay, all sales and use taxes on tangible personal property, including that built into a project or structure, acquired in pursuance of the Contract. Any and all refunds claimed and received by the city shall not affect any bid price or contract price under the Contract.

SEC. 303. Extension of Time. The Contractor shall be considered as having taken into account all hindrances and delays incidental to such services, and will not be granted an extension of time on account thereof.

SEC. 304. Singular and Plural. Wherever in the Agreement or any Exhibit thereto the singular or plural form of a noun is used, the meaning may be taken to be either plural or singular, unless the intent taken in the context of the sentence would be changed.

ARTICLE 4 PREVAILING WAGE REQUIREMENTS

SEC. 401. Labor Standards and Wage Rates.

A. The City, the Contractor and any subcontractor in the performance of work on any construction contract (project), twenty-five percent (25%) or more of the costs of which are paid from contract entitlement funds: (1) will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a--276a-7); and (2) will be covered by labor standards specified by the Secretary of Labor pursuant to 29 C.F.R., Parts 1, 3, 5, and 7.

B. In situations in which the Davis-Bacon Act (40 U.S. C. 276a to 276a-7 as supplemented by Department of Labor regulations 29 CFR Part 5) standards are applicable, (generally construction contracts in excess of \$2,000), the Contractor or any subcontractor shall comply with all requirements and must file with the regional office of the United States Department of Labor a Standard Form 308 requesting a wage determination for each intended project at least thirty (30) days before the invitation for bids, and must ascertain that the wage determination issued and the contract clauses required by 29 C.F.R. 5.5 are incorporated in any subcontract specifications. The City, the Contractor and any Subcontractor must also satisfy itself that the successful bidder is made aware of its labor standards responsibilities under the Davis-Bacon Act.

C. In the event that the Davis-Bacon Act is deemed not to apply to this Agreement, but yet the Services to be provided hereunder nonetheless require construction or constructions services, then Section 20-76 of the Denver Revised Municipal Code pertaining to Payment of Prevailing Wages shall apply.

D. If any subcontract involving subcontractors other than State agencies shall involve the construction or maintenance of a public work as set forth in Section 20-76 of the Revised Municipal Code of the City, the following provisions shall apply:

1. Any person or company other than a State agency entering into a subcontract with the State for the construction of any public building or the prosecution or completion of any public work or for repairs upon any public building or public work, shall be required before commencing work, to execute, in addition to all bonds that may now or hereafter be required of them, a penal bond, with good and sufficient surety or sureties, to be approved by the Manager of Public Works of the City, conditioned that such contractors shall promptly make payments of all amounts lawfully due to all persons supplying or furnishing him or it, or his or its subcontractors with labor or materials, or with labor and materials used or performed in the prosecution of the work provided for in such contract, and will indemnify the City to the extent of any and all payments in connection with the carrying out of any such contracts with said City may be required to make under the law.

2. Every worker, mechanic or other laborer employed by any Contractor or subcontractor in the work of drainage or of construction, alteration, improvement, repair, maintenance or demolition of any public building or public work by or in behalf of the City, or for any department of the City, or financed in whole or in part by the City or any department of the City, or engaged in the work of a doorkeeper, caretaker, cleaner, window washer, porter, keeper, janitor or in similar custodial or janitorial work in connection with the operation of any such public building or the prosecution of any such public work by or in behalf of the City, or for any department of the City, or financed in whole or in part by the City, or any department of the City, shall be paid not less than the wages prevailing for the same class and kind of work in the City as determined by the Career Service Board of the City under Section D hereof.

3. For every subcontract in excess of \$2,000.00 which requires the performance of work involving drainage or involving construction, alteration, improvements, repairs, maintenance or demolition of any public building or public work, or which requires the performance of the work of a doorkeeper, caretaker, cleaner, window washer, porter, keeper, janitor, or similar custodial or janitorial work in connection with the operation of any such public building, or the prosecution of any such public work, the minimum wages to be paid for every class of labor, mechanics or work shall be not less than the scale of wages from time to time determined by said Career Service Board to be the prevailing wages under Section (D) hereof; no increase or increases in such minimum wages shall result in any increased liability on the part of the City, and the possibility and risk of any such increase or increases is assumed by the Contractor.

4. It shall be duty of said Career Service Board to determine, after hearing, the prevailing wages for the various classes of laborers, mechanics, and workers which will be required in the performance of the Subcontract, which determination shall be made periodically at least every six months, and as frequently as may be considered necessary by said Career Service Board in order that the determination which is currently in effect shall accurately represent the current prevailing rates of wages. Prior to making such determination, said Career Service Board shall give reasonable public notice of the time and place of the hearing concerning such proposal determination and shall afford to all interested parties the right to appear before it and to present evidence. "Prevailing Wages" shall mean, for each class of work, (a) the rate of pay currently and most commonly paid to laborers, mechanics and workers performing such classes of work in the City, and (b) the overtime and other benefits currently and most commonly granted to such workers, mechanics, and laborers in the City; except that where the work involved is that of construction, alteration, improvement, repair, maintenance or demolition of any public building or public work, "Prevailing Wages" shall mean, for each class of work, the rate of pay currently and most commonly paid and the overtime and other benefits currently and most commonly granted to such workers, mechanics and laborers in the construction industry of the City.

5. The Contractor and every Subcontractor under the Contract shall pay every worker, mechanic and laborer employed under the Contract, not less than the scale of wages as determined by said Career Service Board under Section D hereof to be the prevailing rate. The Contractor and its subcontractors shall pay all workers, mechanics and other laborers at least once a week the full amounts of wages accrued at the time of payment, computed at wage rates not less than those stated in the specifications. Further, the Contractor shall post in a prominent and easily accessible place at the site of the work the scale of wages to be paid by the Contractor and all Subcontractors working under it. In the event the Contractor or any Subcontractor shall fail to pay such wages as are required by the Contract, the Auditor of the City shall not approve any warrant or demand for payment to the Contractor until the Contractor furnishes the Auditor of the City evidence satisfactory to him that such wages so required by the Contract have been paid. Further, the Contractor shall furnish to the Auditor of the City each week during which work is in progress under the Contract, a true and correct copy of the payroll records of all workers, laborers and mechanics employed under the Contract, either by the Contractor or Subcontractors. Such payroll records shall include information showing the number of hours worked by each worker, laborer or mechanic employed under the Contract, the hourly pay of each such worker, laborer or mechanic, any deductions made from pay, and the net amount of pay received by each worker, laborer or mechanic for the period covered by the payroll. Said copy of the payroll record shall be accompanied by a sworn statement of the Contractor that the copy is a true and correct copy of the payroll records of all mechanics, laborers and other workers working under the Contract either for the Contractor or Subcontractors, that payments were made to the workers, laborers, and mechanics as set forth in said payroll records, that no deductions were made other than those set forth in said records, and that all workers, mechanics and other laborers employed on work under the Contract, either by the Contractor or Subcontractor, have been paid the prevailing wages. In the event that any laborer, worker or mechanic employed by the Contractor or Subcontractor under the Contract has been or is being paid a rate of wages less than the rate of wages required by the Contract to be paid as aforesaid, the City may, by notice to the Contractor or Subcontractor, suspend or terminate its right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and in the event of termination, may prosecute the work to completion by contract or otherwise, and the Contractor and its sureties shall be liable to the State or City for any excess costs occasioned the City thereby.

6. No warrant or demand for payment to the Contractor or Subcontractor shall be drawn or allowed by the Auditor of the City unless the Contractor or Subcontractor shall have filed with said Auditor the reports and statements required by Section E hereof nor while any such Contractor or Subcontractor under it shall be in default in the payment of such wages as are required by the Contract.

7. The Provisions of Sections B through G hereof, inclusive, shall constitute a part of every contract of employment between the Contractor and any subcontractor not a State agency and his or its employee performing work covered by the provisions of said sections.

SEC. 402. Use of Property. Whenever Contract funds available for use in whole or in part for the purchase or construction (including rehabilitation) of property (other than office equipment, supplies, materials and other personal property used for the administration of the program), a title to said property shall not be transferred for a period of five (5) years from the date of purchase or completion of construction without the approval of the City. Should it be desirable to sell the property or otherwise transfer the ownership before expiration of the five-year period, a request must be submitted to the City for prior approval.

ARTICLE 5 PERSONAL PROPERTY

SEC. 501. Purchases and City Property.

A. The Contractor agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Contract at the lowest practicable cost, in a way not inconsistent with Section 20-61 through 20-67 of the Revised Municipal Code. Any public Contractor may procure its supplies from State or local government sources without regard to any other provision of the Contract to the extent required by State or local law. The City will assist the Contractor and its subcontractors in the following procedures for procurement of supplies and equipment.

B. Title to all non-expendable personal property furnished by the City, if any, shall remain in the City. Title to all such property acquired by the Contractor including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed in whole or in part as direct item of cost under the Contract, shall immediately vest in the City upon delivery of such property by the vendor. Title to other such property, the cost of which is to be reimbursed to the Contractor under this Contract, shall immediately vest in the City upon (i) issuance for use of such property in the performance of the Contract; or (ii) commencement of processing or use of such property in the performance of the Contract; or (iii) reimbursement of the cost thereof by the City, whichever first occurs. Title to the City property shall not be affected by the incorporation or attachment thereof if any part thereof be or become a fixture or lose its identity as personality by reason of affixation to any realty. All City-furnished property, and all property acquired by the Contractor, title to which vests in the City under this paragraph, are subject to the provisions of this clause and are herein collectively referred to as "City Property".

C. The Contractor agrees to accept as correct the records of the City relating to the identification and marking, segregation and co-mingling and taking of inventories of City property. The Contractor shall maintain and administer in accordance with sound business practice, a program for the maintenance, repair, protection and preservation of City property so as to assure its full availability and usefulness for the performance of the Contract. The Contractor shall take reasonable steps to comply with all appropriate directions or instructions which the City may prescribe as reasonably necessary for the protection of the City property including the removal and shipping of City property, where the City deems that the interest of the City requires the removal of such property.

D. The City property shall be used only for the performance of this Contract and its use by the Contractor is understood and agreed to be part of the consideration for which services are provided.

E. The Contractor shall not be liable for any loss of or damage to the City property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any loss or damage (including expenses incidental thereto):

1. Which results from willful misconduct or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of its managers, superintendents or other equivalent representatives;

2. Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of its directors, officers or other representatives mentioned in (1) above to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of City property as required by Paragraph (D) hereof, or to take all reasonable steps to comply with any appropriate written directions of the City under Paragraph (D) hereof;

3. For which the Contractor is otherwise responsible under the express terms of the Contract;

4. Which results from a risk required to be insured under the Contract; or

5. Which results from a risk which is, in fact, covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the City property, except to the extent that the City may have required the Contractor to carry such insurance under any provisions of the Contract.

F. If the Contractor transfers City property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property

as set forth in Paragraph (F) hereof. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontractor, with the prior approval of the City, provides for the relief of the Contractor from such liability. In the absence of such approval, the subcontractor shall maintain appropriate provisions requiring the return of all City property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the Contract.

G. In the event the Contractor is indemnified, reimbursed or otherwise compensated for any loss or destruction of or damage to the City property, it shall use the proceeds to repair, renovate or replace the City property involved, or shall credit such proceeds against the cost of the work covered by the Contract or shall otherwise reimburse the City, as directed by the City. The Contractor shall do nothing to prejudice the City's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the City, shall, at the City's expense, furnish to the City all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the City) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to City property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the City property for the benefit of the City.

H. Upon the completion of the Contract, or at such earlier date as may be fixed by the City, the Contractor shall submit to the City in a form acceptable to it, inventory schedules covering either all items of City property, or all items of City property not theretofore delivered to the City, and shall deliver or make such other disposal of such City property as may be directed or authorized by the City. The net proceeds of any such disposal shall be credited to the cost of the work covered by the Contract or shall be paid in such manner as the City may direct.

I. Unless otherwise provided herein, the City:

1. May abandon any City property in place, and thereupon all obligations of the City regarding such abandoned property shall cease; and
2. Shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or offices or any portion thereof which is affected by the abandonment or removal of any City property.

J. All communications issued pursuant to this Section shall be in writing.

ARTICLE 6 FIDELITY BOND

SEC. 601. Fidelity Bonding Assurance. Prior to the initial disbursement of funds to the Contractor, the City may request that fidelity bonding be obtained from the surety of the Contractor evidencing that all persons handling funds received or disbursed under the program are covered by fidelity insurance in an amount and manner consistent with the coverage of comparable City employees and consistent with sound fiscal practice. If the bond of any employee of the Contractor is cancelled or coverage is substantially reduced, the Contractor shall notify the City and shall not disburse any funds thereafter until the City receives and acknowledges assurance from the Contractor that adequate insurance coverage has been obtained.

ARTICLE 7 REQUIRED CONTRACT CLAUSES FOR ETA GRANTS

SEC. 701. Executive Order 11246. The Contractor must be in compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor regulations (41 DFR chapter 60).

SEC. 702. Copeland “Anti-Kickback” Act If this agreement involves construction or repair work, it will comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 847) as supplemented in Department of Labor regulations (29 CFR Part 3).

SEC. 703. Contract Work Hours and Safety Standards Act The Contractor shall comply with all Federal, State, and Municipal Act, laws, ordinances, rules and regulations relating to minimum wages and maximum hours of work, including Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

SEC. 704. Clean Air Act Notwithstanding any other provision, the Contractor agrees to comply with the Clean Air Act, as amended, (42 U.S.C. 1857 et seq.), the Clean Water Act, as amended (33 U.S.C. 466 et seq.), and the standards issued pursuant thereto, in facilities which are involved in the activities receiving assistance. All subcontracts will include provisions required by regulations issued by the Department of Labor with respect to the Clean Air Act of 1970 and the Federal Water Pollution Control Act.

SEC. 705. Energy Policy and Conservation Act The Contractor shall comply with all applicable standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Public law 94-163, 89 Stat. 871.

SEC.706. Lobbying Certification

A. None of the funds provided under this Agreement shall be used to influence or attempt to influence any elected or public official to support or defeat any legislation or rules and regulations pending before the Council of the City or the General Assembly of the State of Colorado.

B. Contractor assures and certifies compliance with applicable federal law 45 C.F.R. Part 93 for TANF; 29 C.F.R. Part 93 for WIA; and 45 C.F.R. Part 93 for the Refugee Act.

SEC. 707. Federal Debarment This Agreement is subject to the prohibitions on contracting with a debarred organization set out in U.S. Executive Order 12549, Debarment and Suspension implemented at 45 C.F.R. Part 76. By its signature below, the Contractor assures and certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The Contractor shall provide immediate written notice to the Director if at any time it learns that its certification to enter into this Agreement was erroneous when submitted or has become erroneous by reason of changed circumstances. If the Contractor is unable to certify to any of the statements in the certification contained in this Article 34, the Contractor shall provide a written explanation to the City within thirty (30) calendar days of the date of execution of this Agreement. Furthermore, if the Contractor is unable to certify to any of the statements in the certification contained in this Article 34, the City may pursue any and all available remedies available to the City, including but not limited to terminating this Agreement immediately, upon written notice to the Contractor.

SEC. 708. Nepotism

A. No sub awardee or employing agency may hire a person in an administrative capacity, staff position, public-service employment position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the recipient or program agent from which the sub awardee or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such state or local requirement shall be followed.

B. For purposes of this section:

1. The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

2. The term "person in an administrative capacity" includes those persons who have overall administrative responsibility for a program, for the obtaining of and/or approval of any grant funded under the Act, as well as other officials who have influence or control over the administration of the program, such as the project director, deputy director and unit chiefs, and persons who have selection, hiring, placement or supervisory responsibilities for public service employment or OJT participants.

3. The term "staff position" includes all CWPA staff positions funded under the Act, such as instructors, counselors and other staff involved in administrative training or service activities.

SEC. 709. Prohibited Political Activity and Political Patronage None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

Without limiting the foregoing, the Contractor agrees that political activities are prohibited under this Agreement, and agrees that no funds paid to it by the City hereunder will be used to provide transportation for any persons to polling places or to provide any other services in connection with elections.

A. No program under the Act may involve political activities.

B. No participant may engage in partisan or non-partisan political activities during work hours.

C. No participant may be employed or out-stationed in the office of a member of Congress or a state or local legislator or on any staff of a legislative committee.

D. No participant may be employed or out-stationed in the immediate office of any chief elected executive official (such as the Mayor).

E. No participant may be employed or out-stationed in positions involving political activities in the offices of other elected executive officials (such as a City Council Officer).

F. Contractor staff and participants must comply with the provisions of the Hatch Act.

G. A Contractor may not select or promote a participant based on that individual's political affiliation or belief.

H. A Contractor may not select or advance an employee as a reward for political services or as a form of political patronage whether or not the political services or patronage is partisan in nature.

EXHIBIT F

Colorado Department of Labor & Employment
Workforce Development Programs
AFFIDAVIT OF IMMIGRATION STATUS

Print Your Name: Social Security Number:

Are you a United States (U.S.) citizen? Yes No

If No, verify or provide your alien permit number. Alien Permit Number

If you are not a U.S. citizen, are you in satisfactory immigration status? Yes No

In accordance with the Colorado Revised Statutes 24-76.5, you must possess one of the following forms of identification (ID). Check the appropriate box and provide the ID number and the expiration date, if any. If you do not possess one of the forms of ID listed and do not provide the requested information, your benefits may be denied.

Colorado Driver's License

ID Number

Expiration Date

Colorado Identification Card

ID Number

Expiration Date

U.S. Military Card

ID Number

Expiration Date

Military Dependent Identification Card

ID Number

Expiration Date

U.S. Coast Guard Merchant Mariner Card

ID Number

Expiration Date

Native American Tribal Document

ID Number

Expiration Date

U.S. Passport

ID Number

Expiration Date

Other ID:

ID Number

Expiration Date

Affirmation

I affirm under penalty of perjury that the above information is true to the best of my knowledge. I understand that my lawful presence in the U.S. will be verified before workforce program services can be provided. I affirm that I am a U.S. citizen, legal permanent resident, or am otherwise lawfully present in the U.S. I understand that there are severe penalties for providing false statements and willfully misrepresenting information in order to obtain or increase workforce program services. I authorize the release of all information to determine my eligibility for workforce program services. I understand this may include release of information from former employers, verification with the U.S. Bureau of Citizenship and Immigration Services, and sharing of information with other public agencies in the performance of their public duties in accordance with the Colorado Employment Security Act 8-72-107.

Signature

Date

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 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

Exhibit G
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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, it: 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 CPR §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 CPR 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.