

## **Regional Center Contract Language Change Locations, C-1**

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**EXHIBIT A - REGIONAL CENTER CONTRACT LANGUAGE  
LOS ANGELES COUNTY DEVELOPMENTAL SERVICES FOUNDATION, INC. DBA  
FRANK D. LANTERMAN REGIONAL CENTER**

**FISCAL YEAR 2021-2022**

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(Revised October 11, 2021)

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## **ARTICLE I. STANDARD TERMS AND CONDITIONS**

### **1. General Provisions**

The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.

2. The Contractor, and the agents and employees of Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.
3. The State may terminate this contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the State may proceed with the contract work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this contract, and the balance, if any, shall be paid by the Contractor upon written demand.
4. Without the written consent of the State, this agreement is not assignable by Contractor either in whole or in part.
5. Time is of the essence in this agreement.
6. No alternation or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
7. Subject to the provisions of Article VI, Section 1 herein, the consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

### **8. Amount of Contract**

The total amount payable to Contractor under this contract shall not exceed \$323,484,885 for Fiscal Year 2021-2022 as reflected in Exhibit A of this contract.

Fiscal year funds identified above may not be used for any other fiscal year than the fiscal year specified unless authorized by the State.

## **9. Term of Contract**

Subject to the provisions of Article VI, Section 1 and Article VIII, Section 1 herein, the period of this contract shall be for seven years as specified below. The term of the contract is from July 1, 2019 through June 30, 2026. The first five years of the term, from July 1, 2019 through June 30, 2024, is intended to meet the requirements specified in W&I Code, Section 4629. The last two years of the term, from July 1, 2024 through June 30, 2026, is solely to provide for the claims period specified in Government Code, Section 16304, and to allow for adjustments to the regional centers' allocations and for the payment of claims up to two years after the close of each fiscal year, specifically FY 2024/2025 and FY 2025/2026.

## **10. Exhibits**

- a. Exhibit A, entitled "Contract Budget Summary," is attached hereto and made a part of this contract.
- b. Exhibit B, entitled "Home and Community-Based Services Waiver Regional Center Fiscal Agent Responsibilities," is attached hereto and made a part of this contract.
- c. Exhibit C, entitled "Performance Plan," is incorporated by reference and made a part of this contract.
- d. Exhibit D, entitled "Early Start Statement of Assurances," is attached hereto and made a part of this contract.
- e. Exhibit E, entitled "Community Placement Plan and Community Resource Development Plan Statement of Assurances," is attached hereto and made a part of this contract.
- f. Exhibit F, entitled "Statement of Assurances for Protection of Protected Health Information," is attached hereto and made a part of this contract.
- g. Exhibit G entitled "Medicaid Enrollment Requirements," is attached hereto and made a part of this contract.

## **11. Definitions**

- a. "Allocate" means to forward to the Contractor a contract or contract amendment which has been executed by the State and specifies an amount, or augmented amount, of money available to Contractor to affect the terms of this agreement.
- b. "ARCA" means the Association of Regional Center Agencies.
- c. "State" means the Department of Developmental Services and only the Department of Developmental Services.



- d. "Director" means the director of the Department of Developmental Services.
- e. "Lanterman Act" means Division 4.5 of the (W&I Code), Section 4500, et seq., known and cited as the Lanterman Developmental Disabilities Services Act.
- f. "Operations Budget" means that portion of a Contractor's budget allocation set forth in Exhibit A, that is intended for the delivery of regional center "direct consumer services" and "administration."
- g. "Direct Consumer Services" means those direct services to persons with developmental disabilities delivered by Contractor. These services include but are not limited to case management, funds management for persons with developmental disabilities, rights assurance, diagnosis and assessment, intake, prevention, quality assurance, program development, and other services under the Lanterman Act provided directly by Contractor.
- h. "Administration" means those support activities required of Contractor that are essential to the efficient conduct of business.
- i. "Total Purchase of Service Budget" means that portion of Contractor's budget allocation set forth in Exhibit A which is intended to support the purchase of services (POS) and programs for persons with developmental disabilities.
- j. "Regional Center" means an agency operated by a nonprofit corporation chartered in the State of California (hereinafter referred to as "Contractor") that provides fixed points of contact in the community for persons with developmental disabilities and their families, to the end that such persons may have access to the facilities and services best suited to them throughout their lifetimes.
- k. "GAP Funds" means that portion of the POS appropriation that is intended to pay for services to newly developed ICF-DD/H, ICF-DD/N, and DD/CNC (formerly known as ICF/DD-CN) health facilities for the period between licensure and certification of the facilities.

## **12. Control Requirements**

The Contractor shall comply with all California statutes, laws, and regulations applicable to nonprofit corporations. Contractor shall also render services to persons with developmental disabilities in accordance with applicable federal and California statutes, regulations, ARC v. DDS (1985) 38 Cal.3d.384 and the terms of this contract.



**13. Contractor Service Area or Counties:**

Contractor's regional center serves that portion of Los Angeles County which includes the Central, Glendale, Hollywood, Wilshire, and Pasadena County Health Districts.

**14. Copyrights/Patents**

Except as provided in this agreement, the Contractor may seek patents or copyrights for inventions, copyrightable materials or other original work product which has been commissioned, funded or developed by the Contractor with funds provided by the State, or otherwise produced in performance of this contract, subject to the rights of the State as set forth in this Section. Inventions, for the purposes of this Section, may include, but not be limited to, prosthetic devices, auxiliary learning aids or any other professional aids of a mechanical nature. Copyrightable materials, for the purposes of this Section, may include, but not be limited to data, plans, drawings, specifications, reports, operating manuals, notes, or other consultant work. The State shall have the right to manufacture, reproduce, publish, use and/or distribute all such inventions or copyrightable materials. Upon any such inventions or copyrightable materials shall be the statement: "COPYRIGHTED/PATENTED (as appropriate) DATE (insert date) BY (insert name of contractor); REPRODUCED WITH PERMISSION." No further manufacturing, reproduction, publication, use or distribution shall be made without permission of the Contractor. All copyrights or patents to which this clause is applicable shall be in the name of the Contractor. If any such inventions are patentable, or any such original work product or materials are copyrightable, the Contractor may patent or copyright same except that, whenever any such patents or copyrights are applied for or sought by the Contractor, or any employee or assignee thereof, the Contractor shall promptly and fully report such fact to the State, which reserves a royalty-free, nonexclusive and irrevocable license to manufacture, reproduce, publish, use and/or distribute same. Any revenues derived from the sale of any such invention or copyrighted materials by the Contractor, or any employee or assignee thereof, shall be reported to the State and utilized by the Contractor for the benefit of persons with developmental disabilities.

The Contractor shall include the provisions of this section in all subcontracts to perform work which requires the invention or development of copyrightable materials under this contract. Subcontracts under this section shall specifically note the State's right to manufacture, reproduce, publish, use and/or distribute all inventions or copyrightable materials developed using funds provided by the State.

**15. Nondiscrimination**

- a. Contractor agrees to develop, implement, and maintain a nondiscrimination program as required pursuant to applicable State of California laws and regulations, including Title 2, California Code of Regulations, Section 11099 840 et seq.

- b. During the performance of this contract, the recipient, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of religion, color, ethnic-group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- c. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2), ~~Section 7285.0 et seq.~~, the provisions of Sections 11135, ~~et seq.~~ 11139.5, Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code, and the regulations or standards adopted by the awarding state agency to implement such article.
- d. Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24-hours notice, to such of its books, records, accounts, other sources of information and its facilities as said State or agency shall require to ascertain compliance with this Section.
- e. Recipient, Contractor and its subcontractors shall give written notice of their obligations under this Section to labor organizations with which they have a collective bargaining or other agreement.
- f. The Contractor shall include the nondiscrimination and compliance provisions of this Section in all subcontracts to perform work under the contract.
- g. Contractor shall comply with pertinent provisions of other State of California and federal nondiscrimination laws.

## **16. Drug-free Workplace Certification**

Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code, Section 8355(a).

- b. Establish a Drug-free Awareness Program as required by Government Code, Section 8355(b) to inform employees about all the following:
  - 1) the dangers of drug abuse in the workplace;
  - 2) the person's or organization's policy of maintaining a drug-free workplace;
  - 3) any available drug counseling, rehabilitation and employee assistance programs; and
  - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by Government Code, Section 8355(c), that every employee who works on the contract:
  - 1) receives a copy of the company's drug-free policy statement; and
  - 2) agrees to abide by the terms of the company's statement as a condition of employment on the contract.

## **17. Zero Tolerance Policy**

- a. Contractor shall develop and post on its Internet Website by October 1, 2013, a Zero Tolerance Policy regarding consumer abuse and neglect. Contractor shall annually notify all its employees and notify vendors and long-term health care facilities serving consumers of its Zero Tolerance Policy. The Zero Tolerance Policy shall specify:
  - 1) That all Contractor, vendor and long-term health care facility staff serving consumers are required to report, pursuant to W&I Code Section 15630, to the appropriate entities any incident or allegation of suspected abuse or neglect;
  - 2) The entities for reporting suspected abuse or neglect;
  - 3) That upon becoming aware of a reportable incident or allegation of abuse or neglect of a consumer, pursuant to W&I Code, Section 15630, Contractor and the associated vendor or long-term health care facility shall take immediate action to ensure the health and safety of the involved consumer and all other consumers receiving services from the Contractor, associated vendor or long-term health care facility;
  - 4) That the Contractor, its vendors and long-term health care facilities serving consumers shall ensure its respective employees are fully informed upon hire and annually thereafter regarding the Contractor's Zero Tolerance Policy and mandatory abuse and neglect reporting laws. Each employee must be knowledgeable of

their responsibility to protect consumers from abuse and neglect, the signs of abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law and enforce the Zero Tolerance Policy.

- b. The Contractor's Zero Tolerance Policy shall be incorporated into any new or revised contract, vendorization or other agreement for consumer services. Existing vendors and long-term health care facilities serving consumers shall be informed of Contractor's Zero Tolerance Policy; the Contractor's expectation of compliance with its policy; and, the Contractor will utilize all remedies available to it in statute and regulations to protect the health and safety of consumers.

## **18. Whistleblower Policy**

- a. Contractor shall institute a board approved regional center Whistleblower policy effective December 31, 2010, addressing the reporting of alleged improper regional center and, or vendor/contractor activities.
  - 1) An "improper regional center activity" is defined as an activity by a regional center, or an employee, officer, or board member of a regional center, in the conduct of regional center business, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency;
  - 2) An "improper vendor/contractor activity" means an activity by a vendor/contractor, or an employee, officer, or board member of a vendor/contractor, in the provision of State funded services, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency.
- b. This policy must be consistent with the State's directive entitled "Department of Developmental Services Whistleblower Complaint Process," dated July 28, 2010, and must:
  - 1) Allow for multiple employees within the regional center to be available to accept complaints;
  - 2) Also includes a process to access the Board of Directors for the purpose of filing complaints;
  - 3) Ensure that the policy clearly indicates that the regional center will not retaliate against any complainant;



- 4) Ensure that a process is in place to investigate and take appropriate action on complaints, including complaints of retaliation;
  - 5) Address complainant confidentiality, consistent with the State's Whistleblower Policy, including consumer health and safety, and;
  - 6) Include a process for annually notifying employees and board members of both the regional centers and the State's Whistleblower policies and for posting and maintaining the regional center's whistleblower policy prominently on its website. As part of their eligibility determination and vendorization processes, regional center shall also inform all new clients/families and new vendors of the regional centers' and the State's Whistleblower policies.
- c. In addition, Contractor shall ensure that the regional centers' and the State's Whistleblower Policies are posted on the regional centers' website by January 15, 2011.
- d. Contractor shall review and provide, at minimum, annual training to all board members regarding the regional center governing board's approved Whistleblower Policy to include, but not be limited to the board's role in implementing the policy.

## **19. Transparency and Access to Public Information**

- a. Contractor shall adopt, maintain, and post on its Internet Web site a board-approved policy regarding transparency and access to public information. The transparency and public information policy shall provide for timely public access to information, including, but not limited to, information regarding requests for proposals and contract awards, service provider rates, documentation related to establishment of negotiated rates, audits, and IRS Form 990. The transparency and public information policy shall be in compliance with applicable law relating to the confidentiality of consumer service information and records, including, but not limited to, W&I Code, Section 4514.
- b. To promote transparency, Contractor shall include on its Internet Web site, as expeditiously as possible, at least all of the following:
  - 1) Regional center annual independent audits;
  - 2) Biannual fiscal audits conducted by the State;
  - 3) Regional center annual reports pursuant to W&I Code, Section 4639.5;
  - 4) Contract awards, including the organization or entity awarded the contract, and the amount and purpose of the award;

- 5) POS policies and any other policies, guidelines, or regional center-developed assessment tools used to determine the transportation, personal assistant, or independent or supported living service needs of a consumer;
- 6) The names, types of service, and contact information of all vendors, except consumers or family members of consumers;
- 7) Board meeting agendas and approved minutes of open meetings of the board and all committees of the board;
- 8) Bylaws of the regional center governing board;
- 9) The annual performance contract and year-end performance contract report entered into with the State pursuant to W&I Code, Division 4.5;
- 10) The biannual Home and Community-based Services (HCBS) Waiver program review conducted by the State and the Department of Health Care Services (DHCS);
- 11) The board-approved transparency and public information policy;
- 12) The board-approved conflict-of-interest policy;
- 13) A link to the page on the State's website, specified in W&I Code, Section 4629.5(d);
- 14) The salaries, wages, and employee benefits for all managerial positions for which the primary purpose is the administrative management of the regional center, including, but not limited to, directors and chief executive officers;
- 15) Regional center-specific reports generated pursuant to, and for the purposes of W&I Code, Section 4571(h);
- 16) The Zero Tolerance Policy pursuant to Section 17 of this Article;
- 17) Regional center data pursuant to W&I Code, Section 4519.5 and Article VII, Section 6 of this contract.

## **20. Conflict of Interest**

- a. For purposes of compliance with W&I Code, Section 4626, the Conflict of Interest Statements (Form DS 6016) required to be completed pursuant to California Code of Regulations, Title 17 (California Code of Regulations, Title 17), Section 54500-54535 shall be used until such time as the State issues emergency regulations and develops and publishes a standard conflict of interest reporting statement pursuant to W&I Code, Section 4626(e).

~~b. Following the State's issuance of emergency regulations and the standard conflict of interest reporting statement, all individuals identified in Welfare and Institutions Code § 4626 shall have 60 days to complete, sign and file the conflict of interest reporting statement with the respective entity designated in Welfare and Institutions Code § 4626.~~

b. Contractor shall review and provide, at minimum, annual training to all board members regarding the regional center governing board's approved Conflict of Interest Policy.

c. Contractor shall ensure that all board members understand and carry out their obligations to implement and appropriately monitor all approved conflict resolution plans for governing board members (i.e., have received and reviewed copies of approved resolutions plans, ensure board members with conflicts do not participate in discussions and/or vote on matters for which a conflict exists).

## **21. Labor Relations/Contempt of Court**

By executing this contract, Contractor, pursuant to Public Contract Code, Section 10296 swears under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the two-year period immediately preceding the commencement date of the contract because of Contractor's failure to comply with an order of a federal court ordering Contractor to comply with an order of the National Labor Relations Board.

The State may rescind any contract in which Contractor falsely swears to the truth of the above statement.

## **22. Rights and Privileges Limitations**

No rights or privileges granted under this contract shall inure to the benefit of any person not a party to this agreement.

## **23. Contract Titles Statement**

Both parties agree that contract articles and section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions herein.

## **24. Restricting Use of State Funds**

During the duration of this contract, including any extensions or renewals of the contract, Contractor agrees to comply with Government Code, Sections 16645 through 16649 and W&I Code, Section 4638 that prohibit Contractor's use of State funds to assist, promote or deter union organizing.



**25. Payment of Accrued Benefits**

If this contract is terminated, the State shall pay, as appropriate, accrued benefits pursuant to the contract of employment of each terminated employee. Accrued benefits shall include vacation, sick leave, and any other benefits submitted to and approved, in writing, by the State in advance of or at the time of the termination of this contract.

**26. Americans with Disabilities Act**

Contractor acknowledges the policy and law set forth in 42 USC, Section 12101, et seq., and shall comply with all applicable federal laws relating to the Americans with Disabilities Act.

**27. Validity**

Contractor is aware of the provisions of Public Contract Code, Sections 10295 and 10335, and acknowledges that this contract is void unless approved by the Department of General Services.

**28. Domestic Partners**

Contractor acknowledges the policy and law set forth in Public Contract Code, Section 10295.3, and shall comply with all applicable State of California and federal laws prohibiting discrimination based on domestic partner status.

**29. Procedures for Employee Retention**

Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Article 1.1, Sections 4639.80 through 4639.83, pertaining to procedures for employee retention.



## **ARTICLE II: PROGRAM PROVISIONS**

### **1. Utilization of Public and Private Resources**

Contractor shall utilize to the fullest extent reasonably feasible those public and private resources, as specified in Section 4659 of the W&I Code, which are available without additional cost to the Contractor to implement and coordinate the services identified by the Interdisciplinary Team as required to meet the goals and objectives in the Individual Program Plan for each person with a developmental disability and the outcomes on Individualized Family Service Plans (IFSPs) for children and families served through the Early Start Program.

### **2. Resource Development**

a. Contractor may use POS funds for developing new community resources to protect the consumers' health or safety or because of other extraordinary circumstances, and the State has granted prior written authorization for the expenditure. This provision does not apply to:

1) POS funds allocated as part of the State's Community Placement Plan and Community Resource Development Plan (CPP/CRDP) process.

b. Contractor shall institute a Board approved policy effective January 1, 2011 specifying the circumstances under which the regional center will issue requests for proposals to address a service need. This policy shall also address the applicable dollar thresholds for requiring the utilization of the request for proposals process; the request for proposals notification process; and, how submitted proposals will be evaluated and the applicant selected. Within 30 days of the effective date, Contractor shall post the Board approved policy on the regional center's website.

Contractor shall specify in its Board approved policy the requirements of W&I Code, Section 4648.11, and post the policy on its website.

c. POS funds may be used to provide grants for reasonable start-up costs associated with resource development. Contractor shall develop and maintain a policy for the disbursement of start-up monies and shall keep accounting and other records to document the use of these monies. Such policy shall include provision for fair and equitable recoupment of start-up funds should the vendor and/or fund recipient cease to provide services to consumers after a specified period of time. This includes start-up funds to purchase real property. The policy must be approved by Contractor's Board of Directors and must ensure that the use of POS funds are:

1) Necessary for establishing a new or additional program, project or resource for providing services and supports to consumers;

- 2) Of direct benefit to consumers;
- 3) Supported by contracts with sufficient detail and measurable performance expectations and results;
- ~~4) Not used for routine maintenance of a provider's plant or facility or for the purchase, lease or maintenance of a provider's vehicle.~~
- 4) Not used for the purchase of a provider's vehicle;
- 5) Not used for the lease of a provider's vehicle unless approved in advance by the Director or designee.;
- 6) Not used for routine maintenance of a provider's plant or facility unless approved in advance by the Director or designee;
- 5)7) Not used for construction, renovation, alteration, improvement, or repair of real property that is not of direct medical or remedial benefit to the consumer.

### 3. Contracting Policy

Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Section 4625.5 and California Code of Regulations (CCR), Section 54322.

### 4. Federal Funds

- a. Contractor shall implement mutually agreed to procedures for the administration of all programs funded by Medicaid including: Home and Community-Based Services (HCBS) Waiver, Self-Determination Program (SDP) Waiver, Targeted Case Management (TCM), Intermediate Care Facility-Developmentally Disabled State Plan Amendment (ICF-DD SPA), Nursing Home Reform (NHR), 1915(i) SPA, Early Periodic Screening Diagnosis and Treatment (EPSDT), and Behavioral Health Treatment (BHT). Any modifications to the existing procedures shall be mutually agreed to by the State and ARCA.
- b. Contractor shall ensure that costs that may be reimbursed with Federal Funds are claimed in accordance with the applicable cost principles set forth in Office of Management and Budget Circular (OMB), A-122 and requirements set forth in OMB A-110.
- c. HCBS Waiver Enrollment
  - 1) Contractor shall ensure willing and eligible consumers are enrolled on a flow basis on the HCBS Waiver through implementation of an aggressive enrollment effort that ensures enrollment at the earliest date possible in the fiscal year;

- 2) Months of enrollment will be considered in the allocation of Contractor Operations funding.
- d. For the Title XX program, the following information applies:
- CFDA Title: Social Services Block Grant (SSBG)
- CFDA Number: 93.667
- Federal Agency Name: United States Department of Health and Human Services
- e. Early Start Program
- 1) Contractor shall provide services for infants, until three years of age ~~birth through two years of age~~, and their families, at no cost to the family, who are eligible for regional center early intervention services in accordance with the provisions of Part C of the Individuals with Disabilities Education Act (20 USC Sec. 1471 et. seq.), its implementing regulations (34 CFR Part 303), the Education Department General Regulations (EDGAR) as specified in 34 CFR Section 3035.5, and the California Government Code, Title 14, Section 95000 et. seq. and California Code of Regulations, Title 17, Section 52000 et. seq;
  - 2) The Contractor shall use federal funds provided under Part C of the Individuals with Disabilities Education Act only to supplement and increase service and operations obligations and will in no way be used to supplant state or local funds allocated for infant's birth through two years of age;
  - 3) Contractor shall develop an annual Family Resource Center/Network Plan (FRCP) with input and concurrence from local agencies providing early intervention services. The plan shall include the following:
    - a) A description of how the Contractor provides family resource services, including but not limited to:
      - i) Parent-to-parent support;
      - ii) Information dissemination and referral;
      - iii) Public awareness;
      - iv) Family-professional collaboration;
      - v) Transition assistance for families;
  - 4) Contractor shall submit an annual report prepared in accordance with the State's Early Start Program Memoranda (ESPM).
  - 5) Contractor shall maintain, in the Uniform Fiscal System (UFS),



separate accountability for all federal funds expended for family resource service activities.

**5. Service Standards**

In carrying out its obligations under Article I, Section 12 of this contract, the Contractor shall maintain standards for the purchase of services for persons with developmental disabilities. Within one hundred-twenty (120) days, the State shall review all new or amended purchase of service standards prior to Contractor's implementation of such standards to ensure compliance with statute and regulation.

**6. Community Placement Plan**

Contractor shall develop and implement an annual State approved CPP/CRDP in accordance with Exhibit E and State CPP/CRDP Guidelines.

Contractor utilizing CPP/CRDP funds for the purpose of acquiring housing shall do so in accordance with Contractor's approved CPP/CRDP, the State's CPP/CRDP Housing Guidelines, and all conditions expressed in the State's approval of the CPP/CRDP.

State shall make every effort to provide Contractor with State Housing Guidelines and CPP/CRDP Guidelines simultaneously. If, however, the amended State Housing Guidelines are released after the submission deadline for the CPP/CRDP, upon release of amended State Housing Guidelines, the State agrees to allow Contractor the option to modify their CPP/CRDP to reflect any changes to the State's Housing Guidelines.

Any proposed changes to the CPP/CRDP or State Housing Guidelines will be provided to ARCA at least 30 days before they are to take effect. ARCA will have 30 days to provide comments to the State regarding the proposed changes.

State shall allow Contractor at least 60 days from issuance of CPP/CRDP Guidelines to complete and submit its CPP/CRDP for the following year.

State shall approve Contractor's CPP/CRDP and related housing projects no later than August 1.

**7. Out-of-State Services**

Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Section 4519.

**8. Mental Health Facilities**

Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Section 4648.



## 9. Specialized Resources

As required by W&I Code, Section 4418.25(b)(2), Contractor shall provide information on Specialized Resources developed with the use of CPP funds since fiscal year 2005-2006 and shall make these resources available to other regional centers. This information shall be provided ~~no later than September 1, 2012, and monthly thereafter,~~ in a format agreed to by the State and regional centers.

- a. Contractor must consult with the State to determine whether a specialized resource is available in another regional center service area prior to placement in:
  - 1) The crisis program at Fairview Developmental Center (W&I Code Section 4418.7);
  - 2) A mental health facility ineligible for federal financial participation (FPP) [W&I Code Section 4648(a)(9)(B)(iii) & (C)]; or,
  - 3) Out of state (W&I Code Section 4519.).
- b. Pursuant to W&I Code, Section 4418.25(f)(4), ~~commencing March 1, 2013, and annually thereafter~~ on February 1 thereafter, Contractor shall provide to the State progress in the development of needed statewide specialty services and supports, including regional community crisis options, as provided in W&I Code, Section 4418.25(b)(3).
- c. Contractor shall comply with all placement restrictions of W&I Code, Section 4684.65 regarding ARFPSHNs.

## 10. Self-Determination Program

- a. Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Section 4685.8.
- b. Contractor shall hold at least one Self-Determination Program orientation within 60 days of training conducted by the Department. In consultation with the local volunteer advisory committee, Contractor shall develop a plan to complete orientations for all participants. The plan must take into consideration, at minimum, the language needs of participants and scheduling orientations at times and locations designed to encourage community participation.
- c. Contractor shall report to the State by the 15<sup>th</sup> of each month ~~beginning in March 2019,~~ or less frequently if mutually agreed to, information on the status of individuals selected for the Self-Determination Program. Information will be reported in a mutually agreed upon format and may include individual orientation completion status, program participation status, and concerns/barriers to Self-Determination Program enrollment identified by selected participants.
- d. Contractor shall provide a general progress report to include the

information identified in paragraph (c) on the status of its implementation of the Self-Determination Program to the local volunteer advisory committee.

- e. By February 1, 2019, Contractor shall identify and provide to the State, the name and contact information for an employee who will serve as the point-of-contact for matters related to the Self-Determination Program. The point-of-contact shall be a staff member with broad knowledge of Contractor's implementation of the Self-Determination Program.

## **11. Out-of-State Foster Children**

- a. It is the intention of the parties that dual eligible children who reside out-of-state under the authority of a California county child welfare agency shall be provided with smooth and timely transitions back to regional center services and supports upon their return to residence in California. Absent a request to the contrary from a parent with legal authority, Contractor agrees to maintain a status 2 active file for those regional center-eligible children and non-minor dependents age three and older who Contractor is aware are in residence out-of-state under the authority of a California county child welfare agency (i.e. dual eligible children) subject to the following conditions:
  - 1) Contractor shall conduct and develop an annual Individual Program Plan informed by assessments and information from other involved agencies, to determine current status, service and support needs, and potential alternative services and supports that would be required to support the child in California;
  - 2) Contractor shall work with all involved agencies to identify needed services, prospectively determine funding arrangements consistent with W&I Code, Section 4684, and if necessary, develop and/or adapt appropriate services to meet the child's needs in California;
  - 3) Contractor shall provide semi-annual face-to-face monitoring and may utilize video conferencing for this purpose;
  - 4) All written progress reports provided by the appropriate California county child welfare agency for each dual eligible child residing out of state under the authority of such county child welfare agency shall be reviewed by Contractor and maintained in its files;
  - 5) In accordance with, but not limited to, local AB 2083 Memorandums of Understanding, Contractor shall actively work with all involved agencies to identify and develop resources to support transitioning the child back to California as soon as appropriate;
  - 6) At the earliest possible opportunity, Contractor shall seek approval for start-up funding from the State for the development of

appropriate resources to meet the child's needs when no resource is currently available.

- b. Contractor shall notify the State, and the appropriate county child welfare agency, of any instance in which a parent with legal authority requests the regional center close or inactivate a child's case as referenced in paragraph (a).



## **ARTICLE III: FISCAL PROVISIONS**

### **1. Budget Development Process**

The State and Contractor agree to work together to build Contractor's budget using the best quality data and information available, including information on projected assessments, resource development and placements for the CPP/CRDP. To that end, the State and ARCA agree to implement a process that will provide this data for building the Governor's January Budget and the May Revise. The process will include ARCA proposing policy changes for the State to consider as well as caseload, Medicaid Waivers and other federal funding initiatives, and expenditure trend data.

### **2. Allocation of Funding to Contractor**

- a. By July 1 of each fiscal year, the State and ARCA shall review the existing allocation methodology and make any recommended changes for the Director's approval. The State agrees to provide the regional centers with a report after each allocation issued to Contractor that shows the estimated amount available for Operations, POS, and CPP/CRDP, and the amount allocated to regional centers.
- b. The State shall, by September 1, of each fiscal year, or not later than fifteen (15) days following the enactment of the annual Budget Act, whichever is later, allocate to all regional centers Operations and POS funds consistent with the approved allocation methodology. On or before February 1 of each fiscal year, the State shall allocate to all regional centers the remaining funds unless specified in the approved allocation methodology or agreed to by ARCA. If ARCA and the State do not reach mutual agreement on an approved allocation process, or if the Director does not approve same, no less than one hundred percent (100%) of the Enacted Budget for Operations and ninety-nine percent (99%) of the Enacted Budget for POS, except for any funds appropriated by the Legislature for a specific purpose which has yet to occur, shall be allocated by February 1. The parties agree that it may be necessary to amend this contract in order to allocate funds made available from budget augmentations, if any, and to move funds among regional centers.
- c. By October 1 of each fiscal year, or not later than fifteen (15) days following the enactment of the annual Budget Act, whichever is later, the State shall allocate to the regional centers CPP/CRDP funds in accordance with the CPP allocation methodology agreed to between ARCA and the Department. If ARCA and the State do not reach mutual agreement on an approved allocation process, or if the Director does not approve same, the State shall allocate by October 15 to the regional centers no less than the sum of:
  - (1) 100% of the Start-Up funds per each regional center's approved CPP/CRDP;



- (2) 75% of the Assessment funds per each regional center's approved CPP/CRDP;
  - (3) 25% of the Deflection funds per each regional center's approved CPP/CRDP;
  - (4) 25% of the Placement funds per each regional center's approved CPP/CRDP;
  - (5) 75% of the Operations funds per each regional center's approved CPP/CRDP.
- d. Notwithstanding paragraphs a., b., and c. of this section, the final decision regarding the methodology used to determine the amount of allocations shall rest with the Director.
- e. The Contractor shall submit a monthly POS Expenditure Projection (PEP) report to the State which identifies Contractor's actual and projected expenditures as of the date of this report. By the 10th of each month beginning December 10, which would reflect expenditures through October, the Contractor shall submit the monthly PEP in a format mutually agreed to between ARCA and the State. In the event an agreement cannot be reached, DDS will specify the format to be used with input from ARCA. The final PEP for the year shall be submitted by September 10 of the following fiscal year. This PEP shall reflect expenditures through the first supplemental claim.
- f. As part of the monthly expenditure projection analysis, the State may request, and the Contractor shall provide additional information to explain the expenditure projection.
- g. Contractor shall assure that services to eligible persons with developmental disabilities are provided within the funds identified in Exhibit A of this contract.
- h. In the event the State determines that Contractor has insufficient funds to meet its contractual obligations, the State shall make best efforts to secure additional funds and/or provide Contractor with regulatory and statutory relief.
- i. After notice to the Contractor the State may disencumber any or all funds unexpended and uncommitted by the Contractor out of the amount available under this contract. For the purposes of this Section, such total amount available shall be defined as the amount originally specified in Article I, Section 8, modified by any changes made pursuant to Article III, Section 2, and/or as modified by any executed contract amendment.

- j. Not more than 15 percent of all funds appropriated through Contractor's operations budget shall be spent on administrative costs. For purposes of this section, "direct services" includes, but is not limited to, service coordination, assessment and diagnosis, monitoring of consumer services, quality assurance, and clinical services. Funds spent on direct services shall not include any administrative costs. For purposes of this section, administrative costs include, but are not limited to, any of the following:
- 1) Salaries, wages, and employee benefits for managerial personnel whose primary purpose is the administrative management of the regional center, including, but not limited to, directors and chief executive officers;
  - 2) Salaries, wages, and benefits of employees who perform administrative functions, including, but not limited to, payroll management, personnel functions, accounting, budgeting, auditing, and facility management.;
  - 3) Facility and occupancy costs, directly associated with administrative functions;
  - 4) Maintenance and repair;
  - 5) Data processing and computer support services;
  - 6) Contract and procurement activities, except those performed by direct service employees;
  - 7) Training directly associated with administrative functions;
  - 8) Travel directly associated with administrative functions;
  - 9) Licenses directly associated with administrative functions;
  - 10) Taxes;
  - 11) Interest;
  - 12) Property insurance;
  - 13) Personal liability insurance directly associated with administrative functions;
  - 14) Depreciation;
  - 15) General expenses, including, but not limited to, communication costs and supplies directly associated with administrative functions.

### 3. Advance Payment Provisions

The State shall make available to the Contractor funds for the provision of services under this contract in advance of the Contractor's actual performance therefore, as authorized by W&I Code, Section 4621, subject to the following conditions:

- a. Requests for advance payment shall be in accordance with format and procedures requested by the State. The amount to be advanced shall be twenty-five (25) percent of the total contract amount as set forth in the preliminary allocation and in any subsequent contract amendment. The State shall advance funds as soon as reasonably possible following the enactment of the annual Budget Act.
- b. All amounts advanced under this provision shall be deposited by the Contractor in an interest-bearing bank account(s), in a bank legally authorized to engage in the banking business in California and which account(s) is established solely for operation of the regional center. The account(s) shall be in the name of both the State and the Contractor for the purpose of clarifying the State's rights, title and interest to the State funds in said account(s) as stated in "c" of this Section, in the event that a judgment creditor of the Contractor seeks to levy against the funds by means of attachment or execution.

Each withdrawal from said bank account(s) shall be made only by written instrument or electronic transfer of funds performed by the bank as part of an available service. Upon request of the State in writing, the Contractor shall repay to the State such parts of the unliquidated balance of advance payment as shall be in excess of the current requirements. No part of the funds in said bank account(s) shall be commingled with other funds of the Contractor.

- c. Amounts advanced in accordance with this provision when withdrawn from said bank account(s) shall be used only for pending expenditures in accordance with the attached Exhibit A. Except as provided in "b" of this Section, the Contractor has access to the funds placed in said bank account(s) for administrative convenience only, and hereby agrees that it has no right, title or interest therein, and shall make no withdrawals except for those made solely for the purpose of satisfying claims against or expenses of the Contractor incurred pursuant to and in the performance of this agreement.
- d. All interest earned on these funds shall be reported on the next monthly reimbursement claim to the State.
- e. The State shall have a lien upon any balance in said bank account(s) paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.



- f. All bank accounts and any investment vehicles containing funds from this contract and used for regional center operations, employee salaries and benefits or for consumers' services and supports, shall be in the name of the State and Contractor. Properly established trust accounts that are approved by the Regional Center Board of Directors for the purpose of administering standard employee benefits do not have to be in the name of the State provided the State has the authority to review the financial transactions of the trust or financial reports prepared by independent auditors. "Standard employee benefits" are those commonly provided to employees in the course of business in private companies.
- g. For the bank account(s) above referenced, there shall be prepared three (3) alternative signature cards with riders attached to each indicating their use. In addition to the preparation of signature cards and riders, Contractor and the bank(s) shall enter into a written agreement specifying the bank(s)' responsibilities relative to said bank account(s). The signature cards, riders and agreement specified herein shall be prepared and administered in accordance with the format and procedures specified by the State.
- h. If Contractor cannot comply with "f" of this Section, alternative arrangements mutually agreeable to the parties shall be utilized.

#### **4. Payment Provisions**

In consideration of the services rendered by the Contractor pursuant to this contract, the State shall reimburse the Contractor, for cash expenditures, monthly in arrears. Reimbursement claims shall be submitted in accordance with the claiming procedures requested by the State.

All funds received pursuant to this contract shall be deposited and retained in a bank account(s) set forth in Article III, Section 3.

All funds expended by the Contractor and reimbursed by the State during the term of this contract shall be for the purposes specified and in conformity with Exhibit A.

Any funds which have not been encumbered for services provided or purchased during the term of the contract, shall revert to the State.

#### **5. Budget Category Transfers**

In accordance with the annual Budget Act, a contract amendment shall be required if funds are to be transferred from one budget category to another. This provision shall apply to those budget categories that are listed in Exhibit A.

## **6. Contract Funding Stipulations**

- a. This agreement is subject to the appropriation of funds by the Legislature for the purpose of this contract. If funds are not appropriated in any fiscal year into which this agreement extends, it is mutually agreed that this agreement shall be of no further force and effect. In this event, except as provided in Article I, Section 25, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this agreement, and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor shall ensure that all POS contracts initiated by Contractor include notification of this condition.
- b. Except as provided in W&I Code, Section 4635, if funding for any fiscal year for this program is reduced or deleted by the Budget Act, except as provided in Article 1, Section 25, the State or Contractor shall have the option to either cancel this agreement without liability or agree to an amendment to reflect the reduced amount.

## **7. Travel and Per Diem**

The Contractor shall establish and maintain procedures that assure the State that reimbursements to regional center employees and board members for necessary travel and per diem are equitable, reasonable, and properly documented.

## **8. Independent Financial Audit**

Both parties to this contract recognize the specific requirements under law as stated in W&I Code, Section 4639 and the Single Audit Act of 1984, 31 U.S.C. 7501, et seq., and applicable Office of Management and Budget Circulars (A-122 and A-133 or as revised).

## **9. Vendor Fiscal Monitoring**

- a. Contractor shall monitor the expenditure of public funds by monitoring vendor fiscal claims.
- b. The Contractor shall be responsible for auditing: 1) vendors with prior year annual payments made by the contractor to a vendor of less than \$100,000, 2) consumer's personal and incidental funds, and 3) residential facilities with licensed capacity of six or fewer beds regardless of the payment amount. The DDS shall be responsible for auditing vendors with prior year annual payments from regional centers of \$100,000 or more. The contractor may audit other vendors if prior approval is received from the State. The vendor audits shall be conducted in accordance with the provisions of California Code of Regulations, Title 17, Section 50606, Regional Center Auditing Requirements and in compliance with audit protocols mutually agreed to by the State and Association of Regional Center Agencies.

- c. The Contractor shall meet or exceed the following minimum requirements and will be evaluated based on the results achieved. In evaluating the results of the contractor's efforts, consideration will be given to the fact that funding for fiscal monitors was reduced in FY 2004-05.

The minimum number of audits conducted by Contractor shall be 4% of the total number of separately vendored services for the following service categories: community care facilities with licensed capacity of six or fewer beds, transportation, day programs, in-home respite agencies and respite facilities. The vendors included in the base for establishing the minimum number of audits, shall be those vendors that receive total prior year POS payments from the contractor of \$100,000 or less and those residential facilities with licensed capacity for six or fewer consumers. Prior to June 1 of each year the State will provide the Contractor with the total number of vendors that will be used to calculate the minimum number of audits to be conducted. Contractor shall ensure that the minimum number of audits conducted includes at least 35% billing audits and 20% cost verification and staffing audits. Cost verification audits are audits of cost statements, State authorized rate increases, or verification of costs used by regional centers to set rates as provided for in California Code of Regulations, Title 17, Staffing audits are audits conducted to verify compliance with staffing levels as specified in California Code of Regulations, Title 17, or by contract with a service provider as allowed by California Code of Regulations, Title 17. Procedures for staffing audits may also include verification that staffing levels are appropriate for the consumer's assessed level of care and are in compliance with the vendor's program design narrative. The billing audits conducted shall include vendors serving consumers eligible for the HCBS Waiver. At least one of the vendors audited must be a program that serves children under the age of three. The Contractor shall make a good faith effort and exhaust all reasonable methods of collection to recover all fiscal adjustments identified as a result of the Contractor's vendor audits. Documentation of collection efforts shall be maintained by the Contractor for future review.

By October 1 of each year, Contractor shall submit to the State a listing of all vendor audits conducted during the prior fiscal year and a list of recoveries. The list of recoveries shall identify the vendor, the date of the audit report, the amount recovered during the prior fiscal year and the method of recovery which may be either collection of cash or off-set of vendor billings.

- d. This provision does not negate the requirement that regional centers submit vendor audit reports to the State pursuant to California Code of Regulations, Title 17, Section 50606(g)(1)(F). Completed reports are to be submitted at least quarterly.