


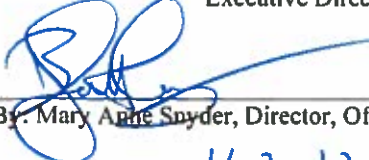
CONTRACT AMENDMENT #4

SIGNATURE AND COVER PAGE

State Agency Colorado Department of Human Services Office of Early Childhood 1575 Sherman Street, 1 st Floor Denver, CO 80203	Original Contract Number 17 IHIA 89195
Contractor Eastern Colorado Services for the Developmentally Disabled, Inc. PO BOX 1682 Sterling, CO 80751	Amendment Contract Number 18 IHIA 104371
Current Contract Maximum Amount Initial Term State Fiscal Year 2017 \$515,870 Extension Terms State Fiscal Year 2018 \$489,822 Total for All State Fiscal Years \$1,005,692	Contract Performance Beginning Date July 1, 2016 Current Contract Expiration Date June 30, 2018

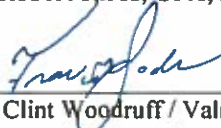
THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<p style="text-align: center;">CONTRACTOR</p> <p style="text-align: center;">Eastern Colorado Services for the Developmentally Disabled, Inc.</p> <div style="text-align: center;">  _____ By: Rhonda Roth, Executive Director Date: <u>10-26-17</u> </div>	<p style="text-align: center;">STATE OF COLORADO</p> <p style="text-align: center;">John W. Hickenlooper, Governor Reggie Bicha Executive Director</p> <div style="text-align: center;">  _____ By: Mary Anne Snyder, Director, Office of Early Childhood Date: <u>11-2-17</u> </div>
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
 Robert Jaros, CPA, MBA, JD

By: 

 Clint Woodruff / Valri Gimple

Amendment Effective Date: December 7, 2017

1. PARTIES

This Amendment (the "Amendment") to the Original Contract shown on the Signature and Cover Page for this Amendment (the "Contract") is entered into by and between the Contractor, and the State.

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred under this Amendment either before or after of the Amendment term shown in §3.B of this Amendment.

B. Amendment Term

The Parties' respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment or **September 1, 2017**, whichever is later and shall terminate on the termination of the Contract.

4. PURPOSE

Provide early intervention services to eligible infants, toddlers, and their families, which are provided in accordance with Section 27-10.5-701, C.R.S. and Rules and Regulations 12 CCR 2509-10, Sections 7.900-7.994, as currently exist or may hereafter be promulgated or amended, and federal regulations, 34 C.F.R., Part 303, Early Intervention Program for Infants and Toddlers with Disabilities. This amendment updates Exhibit A – Statement of Work.

5. MODIFICATIONS

The Contract and all prior amendments thereto (Original CMS 17 IHIA 89195; Amendment #1 CMS 17 IHIA 96842; Amendment #2 CMS 17 IHIA 99034; Amendment #3 CMS 18 IHIA 100806), are modified as follows:

A. Exhibit A - Statement of Work

Exhibit A – Amendment #4, which is attached and incorporated into this Amendment, replaces Exhibit A of the Original Contract.

6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

**Fiscal Year (FY) 2017-18
STATEMENT OF WORK FOR EARLY INTERVENTION SERVICES**

The Colorado Department of Human Services (CDHS), Office of Early Childhood, Division of Community and Family Support (DCFS) is authorized, pursuant to 27-10.5-102(12) Colorado Revised Statutes (C.R.S.) (2014) and 27-10.5-703 C.R.S. (2014), to administer the statewide Early Intervention (EI) Colorado program and is designated as the lead agency for Part C of the Individuals with Disabilities Education Act (IDEA).

The Community Centered Boards (CCBs) have been designated by the CDHS as Certified EI Service Brokers (hereafter referred to as “Contractor”) as defined under Section 27-10.5-702 (3) (2014), C.R.S. The EI Colorado program is administered by the CDHS, OEC, DCFS, hereafter referred to as DCFS, through contracts with CCBs. Contractors deliver community-based EI services to infants and toddlers, birth through two (2) years of age, who have been determined to have a developmental delay or disability, who have been diagnosed with a physical or mental condition that has a high probability of resulting in a significant delay in development, or who are living with a parent who has a developmental disability. Contractors are responsible for intake, eligibility determination, Individualized Family Service Plan (IFSP) development, arrangement for services, the delivery of services, monitoring and other functions.

The EI Colorado program provides eligible infants and toddlers, and their families, with services and supports to enhance child development in the areas of cognition, speech, communication, physical development, motor development, vision, hearing, social or emotional development, and self-help skills. EI services are funded through state funds, private insurance dollars, federal Part C funds and other funds.

The contract sets forth the requirements to be met by the Contractor for satisfactory contract performance, and specifies those remedies that may be invoked in the event that the Contractor does not comply with the terms of the contract.

In accordance with applicable statutes and rules, the Contractor has been designated as a CCB and as a Certified EI Service Broker serving Logan, Sedgwick, Phillips, Morgan, Washington, Yuma, Elbert, Lincoln, Kit Carson and Cheyenne Counties. The projected number of clients to be served in fiscal year 2018 is 117.

I. STATEMENT OF WORK

The Contractor shall administer and purchase or provide a program for children determined to be eligible for EI services, as defined in the state and federal statutes, regulations and procedures. EI services shall be purchased or provided by the Contractor, as a designated Certified EI Service Broker defined under Section 27-10.5-702 (3) (2014), C.R.S., pursuant to the following statutes, regulations and procedures as they currently exist or may hereafter be promulgated or amended, which are, by this reference, incorporated and made a part of this contract as set forth herein:

- A. Certified Early Intervention Service Broker duties, Section 27-10.5-708, C.R.S. (2014);
- B. Community Centered Board designation, Section 27-10.5-705, C.R.S. (2014);

Exhibit A – Amendment #4

- C. Early Intervention Program, 12 2509-10 Colorado Code of Regulations (CCR) Section 7.900, et. seq., CDHS Rules and Regulations;
- D. Title 1, Part C of the IDEA of 2004, 20 United States Code (U.S.C.) 1431 through 1445;
- E. Code of Federal Regulations (C.F.R.), Title 34, Volume 2, Part 303 Early Intervention Program for Infants and Toddlers with Disabilities; and,
- F. Early Intervention Colorado State Plan (2016).

II. PAYMENT/PRICE AND TERM

- A. In consideration for the services provided by the Contractor under the terms of this contract, the State shall disburse or reimburse funds to the Contractor as follows:
 - 1. The DCFS shall provide to the Contractor an allocation worksheet showing the projected enrollment, funding sources, and the maximum amount of State General Fund and Federal Part C funds available for the Contractor for service coordination, direct services, operations and indirect and shall notify the Contractor of allocation changes, as needed. Reimbursements are considered earned when a deliverable is met, a service is performed, or a cost is incurred.
 - 2. The DCFS shall pay to the Contractor the amount due for State General Fund and Part C funded services. The maximum amount of State General Fund and Part C funds, or any changes to the maximum amounts, may be increased or decreased by the DCFS during the term of this agreement based on the criteria defined in this contract.
 - 3. Payment pursuant to this contract shall be made as earned, in whole or in part, from available State General Fund and Federal Part C funds in an amount not to exceed the amount listed in **Exhibit F** for the purchase of services under the EI program. It is further understood and agreed that the maximum amount available for FY 2017-18 for the purchase of services under the EI program contract is the amount listed in **Exhibit F** of State General Fund and Federal Part C funds. All direct funds, service coordination and operations funds will be subject to a de minimis 10% indirect, paid monthly, and based on that month's invoice, not to exceed the amounts listed in **Exhibit F**. The liability of the DCFS, at any time, for such payment shall be limited to the unexpended amount remaining of such funds. All funds shall be expended in the categories as allocated and defined in the allocation worksheet.
 - 4. The State General Fund and Part C funds for EI operations and service coordination shall be disbursed at one-twelfth (1/12) of the allocation per month. State General Fund, Part C funds, and EI Services Trust for operations and service coordination are considered earned once disbursed.
 - 5. The DCFS shall pay to the contractor the fee for service amounts due for services with State General Fund, federal Part C funds and EI Services Trust for each child who received direct services in the EI program within 45 days of presentation of a

Exhibit A – Amendment #4

claim in the format prescribed by the DCFS and in accordance with the method of payment hereinafter stated.

6. Other increases or decreases in the level of contractual funding during the term of this contract may be made under the following circumstances:
 - a. If necessary to fully utilize Colorado State appropriations and/or appropriated or non-appropriated federal grant awards;
 - b. Supplemental appropriations funding changes resulting in an increase or decrease in the amounts originally budgeted and available for the purposes of this program;
 - c. Closure of programs and/or termination of related contracts;
 - d. Delay or difficulty in implementing programs or services due to causes of nature beyond the control of the contractor;
 - e. Noncompliance with state or federal regulations or assurances that result in a plan of correction with fiscal sanctions; or,
 - f. Other special circumstances, as deemed necessary.
7. Claims shall be submitted in accordance with the rates and amounts determined by the DCFS and claims may be amended during the term of the contract.

Reimbursement is limited to the total amount of State General Fund and Part C funds allocated to the Contractor in **Exhibit F**. When the Contractor's maximum allocation of State General Fund and Part C funds have been disbursed or reimbursed to the Contractor, no additional funds are guaranteed to be provided hereunder. The Contractor shall:

- a. Ensure that funds are used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source;
- b. Ensure that no EI Services Trust or Part C funds are used for the provision of EI services for children who do not meet the eligibility criteria under 7.920, excluding 7.920 (I);
- c. Ensure that, for a child who meets the eligibility criteria under 7.920(I), only State General Fund may be used for the provision of EI services;
- d. Adhere to DCFS accounting procedures and establish any necessary cost accounting systems to properly record and allocate separately the revenue and expenses for State General Fund, Part C funds, Medicaid funds, private health insurance funds, local CCB funds and other funds used for the provision or purchase of EI services in order to ensure that Part C funds shall not be commingled with, nor supplant, any other funds received by the Contractor.

Exhibit A – Amendment #4

- e. The Contractor shall track expenditures for each funding source by line item for service coordination, direct services, operations and indirect and any other expense line item identified by the DCFS
8. In the instance where the Contractor projects that the direct service allocation is not sufficient to cover early intervention services for every eligible child they may submit a request for Payor of Last Resort funds as outlined in the Fiscal Management and Accountability Procedures. The Department will review and approve funding requests necessary to fulfill the assurance under 34 CFR §303.101(a) that appropriate early intervention services, as defined in 34 CFR §303.13, are available to all infants and toddlers with disabilities in the State and their families, including:
 - a. Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;
 - b. Infants and toddlers with disabilities who are homeless children and their families; and
 - c. Infants and toddlers with disabilities who are wards of the State.
 9. The Contractor shall ensure that any provider of a Medicaid allowable service, either contracted or employed, is an enrolled Medicaid provider. The DCFS will work with the Contractor to identify a timeline to fully implement this requirement.
 10. In the instance where the Contractor projects that the service coordination allocation is not sufficient to meet the requirements under 34 CFR §303.34, they may submit a request for Payor of Last Resort funds as outlined in the Fiscal Management and Accountability Procedures. The Department will review and approve funding requests as necessary. The Contractor shall demonstrate due diligence in accessing all available service coordination funding through Medicaid Targeted Case Management and the Early Intervention Services Trust.
 11. On or before the last calendar day of each month, the Contractor shall submit a state-approved claim for reimbursement of State General Fund and/or Part C funds for direct services rendered in the previous month. Each monthly claim for reimbursement and a final statement to be rendered on or before July 31, 2018, shall reflect an adjustment for missed or duplicate claims from a previous month or the reimbursement for services by Medicaid or private health insurance plans.
 12. All checks or warrants endorsed by the Contractor and presented for payment shall constitute payment in full, except when endorsed under good faith protest pursuant to Section 4-1-308, C.R.S.
 13. In the event that overpayments are made by the DCFS due to the Contractor's omission, error, fraud or defalcation, funds shall be repaid in a manner deemed to be reasonable by the state or federal government.
 14. In the event that available funding for the services purchased by the DCFS through this contract is reduced and that reduction results in the inability of the Contractor to

Exhibit A – Amendment #4

comply with this or the regulations of the DCFS regarding the provision of services, the Contractor shall submit a request to renegotiate this contract or for a waiver of the rules governing the provision of these services in accordance with the following criteria:

- i. A waiver of the relevant state and federal rules and procedures may be granted only upon a finding that the waiver would not adversely affect the health, safety, welfare or rights and privileges of an infant or toddler and their family enrolled in EI services and upon further finding that a valid programmatic reason exists or a demonstrated financial hardship on the Contractor such that the provision of necessary services would be endangered;
 - ii. The DCFS shall not waive any requirement that would jeopardize the receipt of federal Part C funds for the provision of EI services, nor shall the DCFS approve waivers of rules and procedures that would in any way materially affect the rights and privileges of individuals with developmental disabilities as provided by the Colorado Revised Statutes and other applicable state and federal laws and regulations;
 - iii. No waiver granted by the DCFS shall in any way constitute a waiver of the obligations of the Contractor under rules and regulations of other departments and agencies of the state of Colorado or the federal government; and,
 - iv. The Contractor seeking a waiver of any of the rules and regulations contained herein bears the burden of proof in demonstrating that the waiver sought is in conformity with these provisions.
15. If a waiver is granted and substantially affects the scope of services to be provided under this contract, the contract shall be amended to incorporate the approved waiver. If the amended contract is not signed within 30 days of being submitted to the Contractor, this contract shall terminate upon the expiration of the 30 days. If the request to renegotiate the contract or to waive the rules governing the provision of services is denied, the Contractor may initiate the process to cancel this contract in accordance with the provisions of this contract specified in **Exhibit A, Section II. C.** of this contract.
- B. The DCFS reserves the right to make adjustments during the contract period, a post-period adjustment to disbursements following the end of the contract period or an adjustment to the following fiscal year contract if the Contractor does not fulfill the statement of work identified in **Exhibit A, Section I.** of this contract.
 - C. The Contractor shall have the right to terminate this contract by giving the DCFS 30-day notice.
 - D. If notice is so given, this contract shall terminate on the expiration of the 30 days and the liability of the parties hereunder for further performance of the terms of this agreement shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

Exhibit A – Amendment #4

1. In the event of the termination or non-renewal of this contract, all records, funds and equipment purchased with state or federal funding for each infant or toddler receiving services shall be transferred with that child to a newly assigned Contractor for the child in a manner consistent with instructions provided by the DCFS. Any records not so transferred shall, at the written option of the DCFS, either be transferred to the DCFS or retained by the Contractor until released by the DCFS. All bonding shall remain in effect until such written release is made by the DCFS.
2. The Contractor shall make a final accounting and shall return to the State all moneys paid in excess of the amount due hereunder within 30 days of the termination. In the event that full payment due the Contractor hereunder for services performed has not been made by the DCFS, the Contractor shall receive payment of any remaining amounts due, to the extent of available funds as described herein, within 30 days of the date of termination hereof.

III. MISCELLANEOUS PROVISIONS

- A. Maintenance of Records: The Contractor shall maintain a complete file of all records, documents, communications and other written materials which pertain to the operation of programs or the delivery of services under this contract and shall maintain such records for a period of six (6) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further periods as may be necessary to resolve any matters which may be pending. All such records, documents, communications and other materials shall be the property of the DCFS, and shall be maintained by the Contractor in a central location and the Contractor shall be custodian on behalf of the DCFS.
- B. Privacy and Data Security of Electronic Records: The Contractor shall ensure that it has adopted a sound data security program that includes administrative, technical and physical safeguards to guarantee the privacy protections under the Family Education Rights and Privacy Act (FERPA) of 1974, 20 U.S.C. 1232g and its regulations under 34 C.F.R. Part 99, and to the extent applicable, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, 42 U.S.C. 1320d-1320d-8 and its regulations in 45 C.F.R. Parts 160, 162 and 164, as included in **Exhibit C**. This includes appropriate procedures to protect a child's and family's personally identifiable information on file and data in transmission and prevent FERPA violations by employees and sub-contractors.
- C. Reporting and Notification: The Contractor shall:
 1. Ensure that the System for Award Management (SAM) record is active and current;
 2. Ensure the Dun and Bradstreet (D.U.N.S.) number is accurate;
 3. Notify the DCFS in writing no later than 30 calendar days from the date of the execution of the EI program contract with the D.U.N.S. number and confirmation that the SAM record is active and current;

Exhibit A – Amendment #4

4. Notify the DCFS within 30 calendar days of any future change in the agency name or address; and,
5. By July 1, 2017, provide to the DCFS the staff information required in Exhibit E, and inform the DCFS throughout the year if these contacts change.

D. **Remedies:** In addition to other contract non-performance remedies hereunder, it is understood that the following remedies may be invoked by the State in the event that the terms of this contract are not complied with by the Contractor.

1. If the Contractor is deemed to be out of compliance at any time related to compliance with the IDEA, 20 U.S.C Sections 1401-1444, 34 C.F.R. Section 303 and/or 12 CCR 2509-10 Section 7.900-994, then corrections or, if appropriate, a plan of correction shall be required. Written notification shall specify if corrections are to be made immediately or if a plan of correction shall be developed and the deadline for correction specified.
2. If corrections related to noncompliance are not made by the timeline specified in the plan of correction, the DCFS reserves the right to use any appropriate remedy.
3. In situations where persistent deficiencies exist, the DCFS shall impose corrective actions that may include:
 - a. Requiring training and/or technical assistance activities of the staff;
 - b. Withholding, denying or recouping payment for services for which noncompliance is documented;
 - c. Issuing written special conditions that shall be met if the contract is to continue; or
 - d. Cancellation, termination for cause or non-renewal of the contract.
4. If fiscal sanctions are imposed, a specific amount of funds, in addition to recouping payment for service for which noncompliance is documented, shall be withheld from the monthly Operations payments based on the percentages listed below:

a.	Within the first 30 days after deadline	15%
b.	More than 30 days after deadline	25%
c.	More than sixty (60) days after deadline	50%
d.	More than ninety (90) days after deadline	75%

Upon the Contractor making the necessary corrections or achieving full compliance in the plan of correction, the DCFS shall make retroactive payment of Operations to the Contractor of funds withheld except as noted in Paragraph 5 below.

5. If by June 1st of the current contract period, or within one hundred twenty (120) days after the deadline, the Contractor is still not in full compliance with a plan of correction, all funds withheld as of that date shall become a permanent reduction

Exhibit A – Amendment #4

to this contract. This remedy shall not preclude the DCFS from taking any other appropriate remedy consistent with the terms of this contract.

6. After written notification of a fiscal sanction by the DCFS that results in the withholding of funds or permanent reduction to the contract made under this provision, except in the case of withholding of over payments, the Contractor may appeal to the Executive Director of the CDHS. In the case of an appeal that is being reviewed by the CDHS, the corrective action shall be suspended pending the outcome of that appeal.
 7. The following remedies may be invoked in the event that the Contractor does not comply with the terms of this contract:
 - a. Remedies for the Contractor's breach of provisions of this contract regarding the Contractor's responsibilities for providing service coordination, direct services, or management of the local EI program as enumerated in **Exhibit A, Section I. and II.** of this contract shall include reimbursement by the Contractor to a subcontractor or other provider for losses incurred which were caused by the Contractor's breach; and,
 - b. The Contractor shall ensure continued delivery of EI services to the individual child and family while the Contractor's breach is rectified.
- E. Certification Against Lobbying: In addition to the requirements of Part III, A-D, by signing this contract the Contractor certifies that all Part C funds received under this contract shall be used only for expenditures related to the provision of EI services in accordance with IDEA 20 U.S.C. Section 1438(1). Additionally, the Contractor hereby further certifies, agrees and declares that, in accordance with 34 C.F.R. Appendix A to Part 82 (1)-(3) that:
1. No federal appropriated funds have been paid or will be paid by, or on behalf of, the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federally-funded contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federally-funded contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Exhibit A – Amendment #4

3. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers, including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements, and that all sub-recipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 of Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

F. Option Letter Provisions

1. Option to Extended the Term:
 - a. The State may require continued performance for a period of 1 year at the same rates and same terms specified in **Exhibit F** based upon the rates established in the Contract. If the State exercises this option, it will provide written notice to Contractor at least 30 days prior to the end of the current contract term in a form substantially equivalent to **Exhibit G**. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract. The total duration of this Contract, including the exercise of any options under this clause, shall not exceed 5 years.
2. Option to Increase or Decrease Quantities and Total Price
 - a. The State may increase or decrease the amount of funding for service levels described in **Exhibit F** based upon the rates established in the Contract. If the State exercises this option, it will provide written notice to the Contractor at least 15 days prior to the end of the current contract term in a form substantially equivalent to **Exhibit G**. Performance of early intervention services shall continue at the same rates and terms. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract.