

CONTRACT #7
RFS # 344.10-00710
FA # 07-16801

Finance and Administration
Division of Mental Retardation
Services

VENDOR:
Guardian Healthcare Providers,
Inc.



RECEIVED

APR 24 2009

FISCAL REVIEW

STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF MENTAL RETARDATION SERVICES
ANDREW JACKSON BUILDING
500 DEADERICK STREET, SUITE 1500
NASHVILLE, TENNESSEE 37243

April 24, 2009

Jim White, Director
Fiscal Review Committee
8th Floor, Rachel Jackson Building
Nashville, Tennessee 37243

Attention: Leni Chick

Re: Guardian Healthcare Providers, Inc.
Contract Number FA-07-16801-00
Edison # 2768
Request Amendment Review

Dear Mr. White:

The Division of Mental Retardation Services (DMRS) is submitting proposed Amendment 3 to Contract # FA-07-16801-00 with Guardian Healthcare Providers, Inc. for review in accordance with requirements of the Fiscal Review Committee announced on September 18, 2008.

The contract, awarded through the State's RFP process, began on July 1, 2006. Amendment 1 and Amendment 2 extended the contract term and increased funding in accordance with Section B.2. of the contract.

Proposed Amendment 3 extends the contract term, increases funding for the additional contract term, and includes language pertaining to prohibition of illegal immigrants and to the voluntary buyout program, which is currently required in all fee for service contracts.

A copy of the proposed amendment along with a copy of the base contract, prior amendments, and the "*Supplemental Documentation Required for Fiscal Review Committee*" form are enclosed. Please let me know if any additional information is required.

Your assistance for review of this proposed amendment is appreciated.

Sincerely,

Stephen H. Norris
Deputy Commissioner

SHN:dd

Enclosures

Supplemental Documentation Required for
Fiscal Review Committee

RECEIVED

*Contact Name:	Fred Hix, Assistant Commissioner	*Contact Phone:	253-644-2409
*Contract Number:	FA-07-16801-00 Edison # 2768	*RFS Number:	FISCAL REVIEW
*Original Contract Begin Date:	July 1, 2006	*Current End Date:	June 30, 2009
Current Request Amendment Number: <i>(if applicable)</i>	3		
Proposed Amendment Effective Date: <i>(if applicable)</i>	May 1, 2009		
*Department Submitting:	Finance and Administration		
*Division:	Mental Retardation Services		
*Date Submitted:	April 24, 2009		
*Submitted Within Sixty (60) days:	No.		
<i>If not, explain:</i>	This contract is for nursing services at the Arlington Developmental Center (ADC). The ADC census did not decrease as fast as anticipated therefore services requested from this contractor exceeded more than originally anticipated. ADC proposed an increase (to DMRS Central Office) to the contract for FY09 on March 23. Since that time, DMRS Central Office reviewed the request and determined that an amendment is necessary and that an amendment should include an extension of the contract term and funding for FY 2010 because services are needed beyond the current ending date of June 30, 2009.		
*Contract Vendor Name:	Guardian Healthcare Providers, Inc.		
*Current Maximum Liability:	\$5,922,860.00		
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>			
FY: 2007	FY: 2008	FY: 2009	FY: 2010
\$2,546,900.00	\$2,165,400.00	\$1,210,560.00	
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>			
FY: 2007	FY: 2008	FY: 2009	FY: 2010
\$2,546,900.00	\$2,165,400.00	\$1,765,560.00	\$1,513,200.00
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			

Supplemental Documentation Required for
Fiscal Review Committee

IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		Contract nurses are used when state positions are vacant or the number available is inadequate. When this contract was developed, we anticipated that the census of ADC would drop to the point where the 48 to move into the community homes would be just about all that remained. Instead, the first 3 homes opened within the last 3 weeks (1 home per week) so only 12 individuals have been transitioned. The census today at ADC is 68 – almost 24% more than anticipated. In addition, plans called for only 4 living units at ADC to be open, when 9 still remain open today. We are attempting to fill RN positions as potential employees become available, but still maintain a large % of vacant nursing positions.	
*Contract Funding Source/Amount:	State:		Federal:
Interdepartmental:		\$387,812.50	Other:
If "other" please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
6/12/07 - Amendment 1		Increase maximum liability amount	
4/22/08 - Amendment 2		Extended contract term and increased maximum liability amount	
Method of Original Award: <i>(if applicable)</i>		RFP	

C O N T R A C T A M E N D M E N T C O V E R

RFS Tracking #	Edison Contract ID #	Amendment #
34410-00710	0000000000000000000000002768	03

Amendment Purpose	Delegated Authority Requisition ID # (ONLY if applicable)
Extend contract term, increase funding, and add clauses pertaining to illegal immigrants and voluntary buyout	<div style="font-size: 2em; font-weight: bold; opacity: 0.5;">RECEIVED</div> <div style="font-size: 1.5em; font-weight: bold;">APR 24 2009</div>

Contractor/Grantee	Contractor/Grantee FEIN or SSN
Guardian Healthcare Providers., Inc.	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1494290 <div style="font-size: 1.5em; font-weight: bold; opacity: 0.5; position: absolute; top: -20px; right: -20px;">FISCAL REVIEW</div>

Begin Date	End Date	Subrecipient or Vendor	CFDA #(s)
07-01-2006	06-30-2010	<input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007			\$2,546,900.00		\$2,546,900.00
2008			\$2,165,400.00		\$2,165,400.00
2009			\$1,765,560.00		\$1,765,560.00
2010			\$1,513,200.00		\$1,513,200.00
TOTAL:			\$7,991,060.00		\$7,991,060.00

— COMPLETE FOR AMENDMENTS —			Procuring Agency Contact & Telephone #	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Debra Dunn 253-6812 Procuring Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.) Melinda Lana 615-253-3166	
2007	\$2,546,900.00			
2008	\$2,165,400.00			
2009	\$1,210,560.00	\$555,000.00		
2010		\$1,513,200.00		
			Speed Code	
			Account Code	
TOTAL:	\$5,922,860.00	\$2,068,200.00		

— OCR Use —	Procurement Process Summary (FA or ED-type only) Contract was awarded through the RFP process.
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**AMENDMENT THREE
TO FA-07-16801-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, Arlington Developmental Center (ADC), hereinafter referred to as the "State" and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:
 - B.1. This Contract shall be effective for the period commencing on July 1, 2006 and ending on June 30, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:
 - C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed seven million, nine hundred ninety-one thousand, sixty dollars (\$7,991,060.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. The following provision is added as Contract Section D.20.:
 - D.20. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
 - a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 2, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor

who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

4. The following provision is added as Contract Section E.16.:

E.16. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
- b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
- c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

5. Contract Attachment 2 attached hereto is added as a new Contract Attachment.

The revisions set forth herein shall be effective May 1, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,
GUARDIAN HEALTHCARE PROVIDERS, INC.:**

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

**DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF MENTAL RETARDATION SERVICES:**

M. D. GOETZ, JR., COMMISSIONER

DATE

APPROVED:

COMMISSIONER OF FINANCE & ADMINISTRATION

DATE

COMPTROLLER OF THE TREASURY

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Guardian Healthcare Providers, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

CONTRACT SUMMARY SHEET

AMENDMENT 021908

2768

RFS #	Contract #
344.10-710	FA-07-16801-02
State Agency	State Agency Division
Department of Finance & Administration	Division of Mental Retardation Services, Arlington Developmental Center
Contractor Name	Contractor ID # (FEIN or SSN)
Guardian Healthcare Providers, Inc.	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1494290

Service Description
Provide up to 30 nurses for coverages on an as needed basis at ADC. These nurses will be responsible for the day-to-day care and treatment of approximately 119 DD adults.

Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?	CFDA #
July 1, 2006	June 30, 2009	Vendor	

Mark Each TRUE Statement

Contractor is on STARS Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
344.10	30500	084	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007			\$ 2,546,900.00		\$ 2,546,900.00
2008			\$ 2,165,400.00		\$ 2,165,400.00
2009			\$ 1,210,560.00		\$ 1,210,560.00
					\$ -
					\$ -
					\$ -
TOTAL	\$ -	\$ -	\$ 5,922,860.00	\$ -	\$ 5,922,860.00

COPIES RELEASED
APR 24 2008
TO ACCOUNTS

COMPLETE FOR AMENDMENTS ONLY			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Melinda Lanza 615-253-3166
2007	\$ 2,546,900.00		State Agency Budget Officer Approval <i>Melinda Lanza 3/17/08</i>
2008	\$ 1,265,400.00	\$ 900,000.00	
2009		\$ 1,210,560.00	
TOTAL	\$ 3,812,300.00	\$ 2,110,560.00	APR 08 2008
End Date	6/30/2008	6/30/2009	

Contractor Ownership (complete for ALL base contracts - N/A to amendments or delegated authorities)

<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> Government
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT Minority/Disadvantaged	<input type="checkbox"/> Other

Contractor Selection Method (complete for ALL base contracts - N/A to amendments or delegated authorities)

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation*	<input type="checkbox"/> Alternative Competitive Method*
<input type="checkbox"/> Non-Competitive Negotiation*	<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)	<input type="checkbox"/> Other *

Procurement Process Summary (complete for Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)

OCR
APR 07 2008
RECEIVED

**AMENDMENT TWO
TO FA-07-16801-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, Arlington Developmental Center (ADC), hereinafter referred the "State" and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period commencing on July 1, 2006 and ending on June 30, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed five million, nine hundred twenty two thousand, eight hundred sixty dollars (\$5,922,860.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The revisions set forth herein shall be effective March 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS, INC.:



CONTRACTOR SIGNATURE

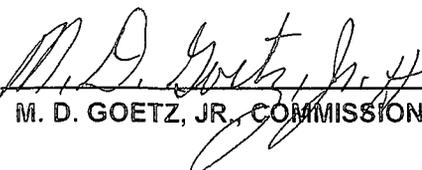
3/26/08

DATE

Renee McGregor COO

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

**DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF MENTAL RETARDATION SERVICES:**



M. D. GOETZ, JR., COMMISSIONER

3-17-08

DATE

APPROVED:

M. D. Goetz, Jr. / sc

4/18/08

M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

John G. Morgan

4-22-08

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

CONTRACT SUMMARY SHEET 021406

RFS #		Contract #	
344.10-710		FA-07-16801-01	
State Agency		State Agency Division	
Department of Finance and Administration		Division of Mental Retardation Services	
Contractor Name		Contractor ID # (FEIN or SSN)	
Guardian Healthcare Providers, Inc.		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> X V- 62-1494290	
Service Description			
Provide up to 30 nurses for coverage on an as needed basis at ADC. These nurses will be responsible for the day-to-day care and treatment of approximately 175 DD adults.			
Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?	CFDA #
July 1, 2006	June 30, 2008	Vendor	
Mark Each TRUE Statement			
<input checked="" type="checkbox"/> Contractor is on STARS		<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts	
Allotment Code	Cost Center	Object Code	Fund
344.10	30500	84	11
FY	State	Federal	Interdepartmental
2007			\$ 2,546,900.00
2008			\$ 1,265,400.00
			\$ -
			\$ -
			\$ -
			\$ -
TOTAL	\$ -	\$ -	\$ 3,812,300.00
COMPLETE FOR AMENDMENTS ONLY		State Agency Fiscal Contact & Telephone #	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Melinda Lanza 253-3166
2007	\$ 2,546,900.00		State Agency Budget Officer Approval <i>Melinda Lanza 5/17/07</i>
2008	\$ 827,500.00	\$ 437,900.00	
			Funding Certification (certification required by T.C.A. §9-4-511.3 that there is a balance in the appropriation from which the obligated expenditures required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL	\$ 3,374,400.00	\$ 437,900.00	
End Date	6/30/2007	6/30/2008	
Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)			
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT disadvantaged
<input type="checkbox"/> OTHER minority/disadvantaged—			
Contractor Selection Method (complete for ALL base contracts - N/A to amendments or delegated authorities)			
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method	
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg. ID, GG, GU)	<input type="checkbox"/> Other	
Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)			

RECEIVED
MAY 21 2007

**AMENDMENT ONE
TO CONTRACT NUMBER FA-07-16801-00**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, Arlington Developmental Center (ADC), hereinafter referred to as the "State", and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor", is hereby amended as follows:

1. Delete Section C.1. in its entirety and insert the following in its place:

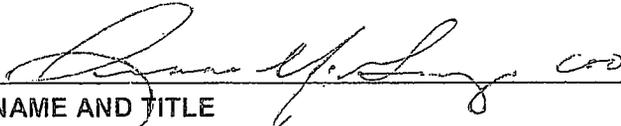
C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed three million, eight hundred twelve thousand, three hundred dollars (\$3,812,300.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS, INC.:

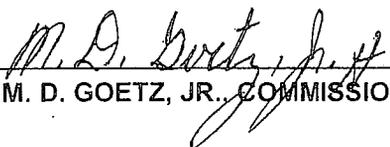
 COO 5/23/07

NAME AND TITLE DATE

RENAE MCGREGOR, CHIEF OPERATING OFFICER

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

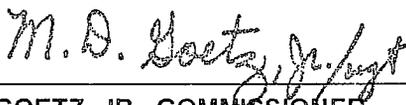
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF MENTAL RETARDATION SERVICES:

 5-18-07

M. D. GOETZ, JR., COMMISSIONER DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

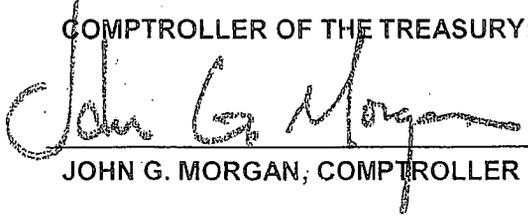
 JUN 1 2 2007

M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF PERSONNEL:

DEBORAH E. STORY, COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

 6/12/07

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

CONTRACT SUMMARY SHEET

021406

RFS #	Contract #
344.10-710	FA-07-16801-00

State Agency	State Agency Division
Department of Finance and Administration	Division of Mental Retardation Services

Contractor Name	Contractor ID # (FEIN or SSN)
Guardian Healthcare Providers, Inc.	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1494290

Service Description
 Provide up to 30 nurses for coverage on an as needed basis at ADC. These nurses will be responsible for the day-to-day care and treatment of approximately 175 DD adults.

Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?	CFDA #
July 1, 2006	June 30, 2008	Vendor	

Mark Each TRUE Statement

<input checked="" type="checkbox"/> Contractor is on STARS	<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts
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Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
344.10	30500	84	11		

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007			\$ 2,546,900.00		\$ 2,546,900.00
2008			\$ 827,500.00		\$ 827,500.00
					\$ -
					\$ -
					\$ -
					\$ -
TOTAL:	\$ -	\$ -	\$ 3,374,400.00	\$ -	\$ 3,374,400.00

— COMPLETE FOR AMENDMENTS ONLY —

	Base Contract & Prior Amendments	THIS Amendment ONLY	State Agency Fiscal Contact & Telephone #
FY			Melinda Lanza 253-3166
2007	\$ 2,109,000.00	\$ 437,900.00	State Agency Budget Officer Approval <i>Melinda Lanza 5/14/07</i>
2008	\$ 1,265,400.00	\$ (437,900.00)	
			Funding Certification: (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	\$ 3,374,400.00	\$ -	
End Date	6/30/2007	6/30/2008	

Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)

<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg, ID, GG, GU)	<input type="checkbox"/> Other

Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

MAY 22

CONTRACT SUMMARY SHEET

021406

RES #	Contract #
344.10-710	FA-07-16801.00
State Agency	State Agency Division
Finance & Administration	Mental Retardation Services, Arlington Developmental Center
Contractor Name	Contractor ID# (FEIN or SSN)
Guardian Healthcare Providers, Inc.	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1494290

Service Description:
Provide up to 30 nurses for coverage on an as needed basis at ADC. These nurses will be responsible for the day-to-day care and treatment of approximately 175 DD adults.

Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
July 1, 2006	June 30, 2008	Vendor	

Mark Each TRUE Statement:

Contractor is on STARS Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
344.10	30500	084	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007			\$2,109,000.00		\$2,109,000.00
2008			\$1,265,400.00		\$1,265,400.00
TOTAL:			\$3,374,400.00		\$3,374,400.00

COMPLETE FOR AMENDMENTS ONLY			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Vickie Connell (901) 745-7350
			State Agency Budget Officer Approval
			MELINDA LAUZA 253-3166 <i>Melinda Lauza</i> 5/18/08
			Funding Certification (certification required by F.C.A. § 91.45113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
			<div style="border: 1px solid black; padding: 5px; display: inline-block;"> RECEIVED JUN 15 11:00 AM '08 OFFICE OF CONTRACTS & ACQUISITION </div>
TOTAL:			
End Date			

Contractor Ownership (complete only for base contracts with contract # or alt # FA or GB)

African American
 Person w/ Disability
 Hispanic
 Small Business
 NOT minority/disadvantaged
 Asian
 Female
 Native American
 OTHER minority/disadvantaged—

Contractor Selection Method (complete for ALL base contracts—N/A to amendments or delegated authorities)

RFP
 Competitive Negotiation
 Alternative Competitive Method
 Non-Competitive Negotiation
 Negotiation w/ Government (e.g., ID, GG, GU)
 Other

Procurement Process Summary (complete for Selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF MENTAL RETARDATION SERVICES,
ARLINGTON DEVELOPMENTAL CENTER
AND
GUARDIAN HEALTHCARE PROVIDERS, INC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, Arlington Developmental Center (ADC), hereinafter referred to as the "State" or "ADC" and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor", is for the provision of registered nursing services for coverage on an as needed basis at Arlington Developmental Center, as further defined in the "SCOPE OF SERVICES".

The Contractor is a for-profit corporation. The Contractor's address is:

109 West Park Drive, Suite 300
Brentwood, Tennessee 37027

The Contractor's place of incorporation or organization is Tennessee.

SCOPE OF SERVICES:

- A.1. The Contractor shall provide up to thirty (30) full-time equivalent nursing positions on an as needed basis at Arlington Developmental Center (ADC), nursing positions include registered nurses (RN) and Nurse Technicians (NT).
- a. Registered Nurses (RN) and Nurse Technicians (NT) must provide care and treatment twenty-four (24) hours per day, seven (7) days per week to the special needs population at ADC as requested. Nurses employed by the State of Tennessee at ADC usually provide this coverage, but due to an insufficient number of state positions, vacancies, vacations and illness, the need exists to supplement that staff through the use of contract nurses.
 - b. The State shall not be obligated to use any particular minimum number of personnel. The need for nurses will be based on a review of the client load, the declining number of residents, available staff, and the ADC Closure Plan.
 - c. Work hours are defined as actual work time on duty at Arlington Developmental Center. A workweek starts on Sunday (Saturday night shift that begins at 11:00 p.m.) and ends on Saturday (Saturday night at 10:59 p.m.).
 - i. No compensation will be paid for unapproved hours which have been worked in excess of thirty-seven and one-half (37.5) hours per week. Approved hours exceeding 37.5 will be paid at the regular hourly rate (no premium overtime).
 - ii. The Contractor's staff must be available to work additional hours as assigned by appropriate Arlington Developmental Center Executive Staff.
 - iii. The Contractor's staff must be able to demonstrate flexibility within a set schedule in order to work during hours which are outside the normal working day.
 - d. Contract nurses will be included in the ADC monthly nursing rotation schedule, which includes weekends.
 - e. The number of nurses per shift will be based on current census and acuity level of individuals served. The Contractor shall provide personnel for the following shift schedules:
 - i. 7:00 a.m. to 3:15 p.m. – Sunday through Saturday (including holidays);

- ii. 3:00 p.m. to 11:15 p.m. – Sunday through Saturday (including holidays);
- iii. 11:00 p.m. to 7:15 a.m. - Sunday through Saturday (including holidays);

Each shift includes a mandatory unpaid forty-five (45) minute meal period. The authorized meal period must be taken during the work shift and may not be used to alter arrival or departure time. Due to meal periods and the fifteen (15) minute overlap in shifts, a double shift will be a maximum of 14.75 hours.

- A.2. The Contractor agrees that it shall not provide any services pursuant to this Contract until the following conditions are met:
- a. Candidate referred for interview for placement by the Contractor has been screened and deemed qualified and suitable by the Contractor in accordance with the provisions of this Contract.
 - b. Candidates recruited for placement by the Contractor must be licensed Registered Nurses as required by the State of Tennessee (TN) or Nurse Technicians who currently possess educational qualifications equivalent of a registered nurse and who MUST obtain TN licensure within (90) days of placement. Under no circumstances will a Nurse Technician be allowed to work more than ninety (90) days after placement without obtaining TN licensure.
 - c. Candidates must not have been convicted or have current charges outstanding which would constitute a felony conviction in Tennessee.
 - d. The Contractor shall provide to ADC all applicable and verifiable documentation as to education and experience, such as transcripts and curriculum vitae, personal and professional references, a copy of the current Tennessee (TN) nursing license and a current TN driver's license (or the ability to obtain a valid TN drivers license within ninety (90) days). Documents required will be in accordance with the current rules of Medicaid and other regulatory agencies.
 - e. The Contractor shall provide to ADC evidence of Professional Liability (malpractice) coverage of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate, covering acts or omissions which may give rise to liability for services under this contract.
 - f. The Contractor shall provide to ADC evidence of a background investigation, including fingerprinting, that relates to the candidates' criminal, sexual/physical/mental abuse, and employment history. This investigation shall be conducted by the Contractor, at its own expense, for each candidate and the resulting information shall be provided to Arlington Developmental Center prior to the staff reporting to work. The background check must be equal to the background check conducted for State employees and the information will be documented in each candidate's ADC file, and updated promptly at any time that the Contractor becomes aware of any change in the candidate's criminal, sexual/physical/mental abuse, and employment history.
 - g. Candidates referred should be able to demonstrate competency, within their scope of practice in the following nursing skills:
 - i. Physical Assessment
 - ii. Formulate Nursing Diagnosis / Health Care Plan Development
 - iii. Medication Administration
 - iv. Legal / ethical documentation
 - v. Transcribing physician's orders
 - vi. Respond to acute events
 - vii. Veni Puncture / IV Maintenance

- viii. Enteral Tube Management
 - ix. Sterile Dressing Changes
 - x. Suctioning (oral & endotracheal)
 - xi. Inhalation Therapy
- h. Candidates referred with English as a second language must present evidence of competency in English by presenting a passing score on the Test of English as a Foreign Language (TOEFL®).
 - i. Candidates with an alien status with the Federal Bureau of Immigration and Naturalization Services (INS) may be referred but all responsibilities for dealing with or complying with requirements of INS remain the responsibility of the Contractor and / or the individual.

A.3. The Contractor shall ensure that all services provided under this Contract will meet or surpass standards for quality of services as specified in the following standards and laws: Title XIX, Medicaid Regulations for ICF-MR providers; Arlington Developmental Center Policies and Procedures; Tennessee Code Annotated, Title 33; the Remedial Order Plan of Compliance; and the Tennessee Nurse Practice Act.

- a. In the event that a candidate proves unsatisfactory to the facility, Arlington Developmental Center is under no obligation to continue the use of the individual and is only obligated to pay for actual hours provided by the individual.
- b. If ADC's Director of Nursing, designee, or higher authority determines that a Contractor's employee is incompetent, has engaged in misconduct, or has been negligent; ADC has the right to require the contract employee to leave the premises. If so, the Contractor will be contacted immediately. The State's obligation to compensate the Contractor for such individual's services will be limited to the number of hours actually worked. The Contractor will not reassign the individual without prior approval of ADC's Director of Nursing.

A.4. Duties/Responsibilities of Contractor staff: The Contractor shall insure that RNs supplied under this contract have the following skills and perform the following specific functions of the position:

- a. Each Registered Nurse shall be responsible for the delivery of continuous and comprehensive nursing services which is consistent with current standards of nursing practice to a designated number of individuals. RNs shall provide clinical assistance to Licensed Practical Nursing staff. The Contractor shall insure that RNs supplied under this contract have the following skills and or able to perform the following specific functions of the position:
 - i. Assessment
 - a) Recognizes or responds to reported changes in health status
 - b) Provides health status assessments appropriate to individuals' needs and based on sound nursing judgment. Recognizes significant changes in health status.
 - c) Assures completion of periodic health status assessments to include:
 - Admission nursing assessment.
 - Assessments associated with transfers in and out of residential living units.
 - Annual nursing assessment.
 - Review and cosigning of quarterly nursing assessments.
 - Nursing progress notes and flow records recorded at a frequency appropriate to individuals' needs.

- ii. Diagnoses
 - a) Establishes a set of comprehensive nursing diagnoses for each individual assigned, based on assessment data.
 - b) Revises nursing diagnoses as they change during periodic review or at the time of acute health problems.
- iii. Planning
 - a) Develops a nursing care plan with outcome-oriented goals and goal-directed interventions specific to each assigned individual's needs, consistent with the Individual Support Plan.
 - b) Revises the care plan annually, with review and updates at least quarterly, or as determined by change in health status.
 - c) Documents care plan implementation on appropriate forms in accordance with facility policy and procedure.
 - d) Assures that goals and objectives of the care plan are communicated to other members of the interdisciplinary team as warranted.
- iv. Implementation
 - a) Assures assessment data is accessible, communicated and recorded according to state and federal regulations and facility policies and procedures.
 - b) Physician's Orders:
 - Transcribes and implements physician's orders according to accepted nursing practice guidelines and facility policy and procedure.
 - Collects specimens as appropriate in accordance with nurse practice standards, state and federal laws and regulations and facility policy and procedures.
 - Notifies the physician within appropriate time frames of the results of test/consultations and consultant recommendations.
 - c) Administers and monitors prescribed controlled and non-controlled medications without supervision.
 - Monitors response to treatment.
 - Documents treatment administration.
 - Notifies prescribing or on-call physician of any untoward response to treatment.
 - Starts and monitors all IV medications.
 - Reviews medications administration records monthly.
 - d) Acts as the health care liaison within the interdisciplinary team.
 - e) Supervises licensed practical nurses in the implementation of the nursing process.

- f) Participates in interdisciplinary shift-to-shift reporting, "stand-up" meetings, general staff meetings, nursing staff meetings, interdisciplinary team meetings and other means to maintain communications.
 - g) Provides one-on-one health care training to resident living staff to insure compliance with individuals' health care needs.
 - h) Responds to emergencies in a timely manner and provides interventions as warranted.
 - i) Requisitions, inventories, maintain, and safeguards medical equipment and supplies, including emergency medical equipment.
 - j) Requisitions, inventories, maintain, and safeguards medications and nutritional supplements on a monthly basis and medication requisitions for citizens attending public school off campus on a weekly basis.
 - k) Monitors the citizen's environment for safety and health hazards and makes recommendations and/or files appropriate reports regarding needed corrections.
 - l) Maintains a current, individualized medical record that reflects the medical status of each individual.
- v. Evaluation
- a) Evaluates responses of individuals to nursing actions and revises nursing assessment.
 - b) Compares progress to stated goals and objectives.
- vi. Other
- a) Participates in committee meetings or other activities as assigned.
 - b) Audits individual charts for completeness and adherence to current treatment plan.
 - c) Provides health care training to residents and family members as warranted.
 - d) Make recommendations for evaluations and disciplinary action for Licensed Practical Nurses (LPNs) and residential living staff.
 - e) Maintains current knowledge of assigned individual's Individual Support Plan.
 - f) Monitors compliance to individualized mealtime programs.
 - g) Requests interdisciplinary team meetings for individuals as needed based on changes health care status.
 - h) Participates in in-service training as assigned as required by state and federal statute and facility policy and procedure.
 - i) Completes other applicable duties as assigned.

A.5. Each Nurse Technician shall be responsible in assisting in the delivery of continuous and comprehensive nursing related services which is consistent with the current standards of nursing practice to a designated number of individuals, under the supervision of a registered nurse. The Contractor shall insure that Nurse Technicians supplied under this contract have the following skills and or able to perform the following specific functions of the position:

- a. Actions
 - i. Recognizes or responds to reported changes in health status.
 - ii. Provides health care appropriate to individual needs, based on sound nursing judgment. Recognizes significant changes in health status.
 - iii. Participates in completion of periodic health status evaluation to include:
 - a) Physical Status Review.
 - b) Evaluations associated with transfers in and out of residential living units.
 - c) Nursing progress notes and flow records recorded at a frequency appropriate to individual needs.
- b. Planning
 - i. Participates in the development of a nursing care plan with outcome-oriented goals and goal-directed interventions specific to each assigned individual's needs, consistent with the Individual Support Plan.
 - ii. Collaborate with RN regarding revisions on the care plan.
 - iii. Documents care plan implementation on appropriate forms in accordance with facility policy and procedure.
 - iv. Assures that goals and objectives for the care plan are communicated to other members of the interdisciplinary team as warranted.
- c. Implementation
 - i. Assures assessment data is accessible, communicated and recorded according to state and federal regulations and facility policies and procedures.
 - ii. Physician's Orders:
 - a) Transcribes physician's orders according to accepted nursing practice guidelines and Facility policy and procedure.
 - b) Collects specimens as appropriate in accordance with nurse practice standards, state and federal laws and regulations and facility policy and procedure.
 - c) Notifies the physician within appropriate time frames of the results of tests/consultations and consultant recommendations.
 - iii. Acts as the health care liaison within the interdisciplinary team.
 - iv. Participates in interdisciplinary shift-to-shift reporting, "stand-up" meetings, general staff meetings, nursing staff meetings, interdisciplinary team meetings and other means to maintain communication.
 - v. Provides one-on-one health care training to resident living unit staff to insure compliance with individuals' health care needs.
 - vi. Responds to emergencies in a timely manner and provides interventions as warranted.
 - vii. Requisitions, inventories, maintain, and safeguards medical equipment and supplies, including emergency medical equipment.

- viii. Requisitions, inventories, maintain, and safeguards medications and nutritional supplements on a monthly basis and medication requisitions for citizens attending public school off campus on a weekly basis.
 - ix. Monitors the citizen's environment for safety and health hazards and makes recommendations and/or files appropriate reports regarding needed corrections.
 - x. Maintains a current, individualized medical record, which reflects the medical status of each individual.
- d. Evaluation
- i. Evaluates responses of individuals to nursing actions and revises assessment database, under the direction of the RN.
 - ii. Compares progress to stated goals and objectives.
- e. Other
- i. Carry out nursing treatment activities, i.e. tube feedings, ostomy care, EXCEPT medication administration and management of IV Therapy.
 - ii. Participates in committee meetings or other activities as assigned.
 - iii. Audits individual charts for completeness and adherence to current treatment plan.
 - iv. Provides health care training to residents and family members as warranted.
 - v. May be asked to provide input for evaluations and disciplinary action concerning performance of residential living staff.
 - vi. Maintains current knowledge of assigned individual's Individual Support Plan.
 - vii. Monitors compliance to individualized mealtime programs.
 - viii. Requests interdisciplinary team meetings for individuals as needed based on changes health care status.
 - ix. Participates in in-service training as assigned and as required by state and federal state and facility policy and procedures.
 - x. Accompanies residents on field trips and other appointments as warranted.
 - xi. May be asked to arrange for transportation for residents outside of the facility.

A.6. Minimum Educational and Training Requirements:

- a. Each nurse must have a current active nursing license from the State of Tennessee as a RN or be eligible for a TN RN license within ninety (90) days of hiring as well as the following:
 - i. Each nurse must maintain a minimum of twelve (12) hours of nursing related continuing education annually. ADC will provide courses to meet this requirement however, documentation from external sources will be allowed pending Director of Nursing approval.
 - ii. Each nurse must be qualified in Cardio-Pulmonary Resuscitation (CPR) procedures. At the expense of the State, ADC will provide CPR training/certification for all nurses. If contract staff has a valid 2-year CPR certification upon assignment to ADC, the Contractor must provide written verification of certification including the effective date. No nurse will be allowed to work under this contract without a current CPR certification.

- iii. One year or more of medical surgical nursing experience and experience with developmental disabilities preferred.

A.7. Immunization and Nurse Health Records

- a. Each nurse's immunization status (includes RNs and NTs) must include the results of a current tuberculosis skin test, and documentation that immunizations against hepatitis B, hepatitis A, tetanus, were offered and accepted or rejected. The Contractor must provide written documentation of such at the time each of its nurses is assigned to ADC and must provide updated information on TB status annually.

A.8. Orientation and In-Service Training

- a. Each contract employee must successfully complete the orientation and training program of a developmental center operated by the State of Tennessee before unit assignment at ADC. The orientation period will last for approximately four (4) weeks and will be billed in accordance with the rates listed in Section C.3. If a contractor employee does not continue to work at ADC for at least six (6) months after the orientation period, the Contractor shall compensate ADC with a twenty-five (25%) percent discount on the next contract employee's orientation period bill rates.

A.9. Time and Attendance

- a. Each contract nurse at ADC must sign in and out the time they report to or from duty and for meal periods. Each timesheet or sign-in sheet shall be verified by ADC's Director of Nursing or designee. Contractors will be paid ONLY for the hours worked and verified by ADC. Timesheets should not be submitted for payment without an authorized ADC signature.
- b. Hours worked will be calculated in increments of fifteen (15) minutes.
- c. Hours worked before and/or beyond the routine shift hours must have prior approval from the ADC Director of Nursing or designee.

A.10. Drug Testing

- a. ADC is a drug-free work place. At the expense of the Contractor, a mandatory drug screening is required for contract employees upon hire. Thereafter, Contractor staff will be subject to periodic random drug tests, at the expense of the State, in accordance with State policy.

A.11. The Contractor is fully responsible for contacting its employee(s) on assignments and cancellations.

A.12. The State retains full authority for patient care at all times.

A.13. ADC will have the option to hire, with the approval of the contractor, the contractor's personnel after one (1) full year of contractual work without a placement fee.

A.14. ADC's contract manager and contact point for these services will be the Director of Nursing.

B. CONTRACT TERM:

B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2006 and ending on June 30, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will

also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed three million, three-hundred seventy-four thousand, four-hundred dollars (\$3,374,400.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

SERVICE	PAYMENT RATE PER HOUR				
	<u>Year 1</u> <u>7/1/06-</u> <u>6/30/07</u>	<u>Year 2</u> <u>7/1/07-</u> <u>6/30/08</u>	<u>Year 3 *</u> <u>7/1/08-</u> <u>6/30/09</u>	<u>Year 4 *</u> <u>7/1/09-</u> <u>6/30/10</u>	<u>Year 5 *</u> <u>7/1/10-</u> <u>6/30/11</u>
Registered Nurse 7:00 am – 3:15 pm	\$48.50	\$48.50	\$48.50	\$48.50	\$48.50
Registered Nurse 3:00 pm – 11:15 pm	\$48.50	\$48.50	\$48.50	\$48.50	\$48.50
Registered Nurse 11:00 pm – 7:15 am	\$48.50	\$48.50	\$48.50	\$48.50	\$48.50
Nurse Technician 7:00 am – 3:15 pm	\$26.00	\$26.00	\$26.00	\$26.00	\$26.00
Nurse Technician 3:00 pm – 11:15 pm	\$26.00	\$26.00	\$26.00	\$26.00	\$26.00
Nurse Technician 11:00 pm – 7:15 am	\$26.00	\$26.00	\$26.00	\$26.00	\$26.00

* Funding for Year 3, Year 4, and Year 5 of this Contract shall be contingent upon an approved amendment.

The Contractor shall not be compensated for travel time based on the hourly rates to the primary location of service provision.

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include

the name of each individual, the individual's job title, the actual hours worked per shift, the total number of actual hours per shift, the applicable hourly rate, the total compensation requested for the individual per shift, and the total amount due the Contractor for the period invoiced. Timesheets are required as backup documentation with the invoice and will be validated by ADC Nurse Management signatures. Timesheets must specify the number of actual hours worked including specifying the mandatory meal periods taken.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any

remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.

- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Vickie S. Connell, ASA 4
Arlington Developmental Center
P.O. Box 586, 11293 Memphis-Arlington Road
Arlington, Tennessee 38002
Telephone Number: (901) 745-7350
Facsimile Number: (901) 745-7251

The Contractor:

Renae McGregor, RN, Chief Operating Officer
Guardian Healthcare Providers, Inc.
109 West Park Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: (615) 377-9140, ext. 218
Facsimile Number: (615) 661-6011

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this contract, these items shall hereinafter be referred to as a "Breach."

a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the state shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment 1 and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental,

consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken

(4) **Contract Termination**— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

b. **State Breach**— In the event of a Breach of contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

E.5. **Partial Takeover**. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.6. **Performance Bond**. Upon approval of the Contract by all appropriate State officials in accordance with applicable State laws and regulations, the Contractor shall furnish a performance bond in the amount equal to five hundred thousand dollars (\$500,000.00), guaranteeing full and faithful performance of all undertakings and obligations under this Contract for the initial Contract term and all extensions thereof. The bond shall be in the manner and form prescribed by the State and must be issued through a company licensed to issue such a bond in the State of Tennessee.

The Contractor shall obtain the required performance bond in form and substance acceptable to the State and provide it to the State no later than May 18, 2006. Failure to provide the performance bond prior to the deadline as required shall result in contract termination.

In lieu of a performance bond, a surety deposit, in the sum of five hundred thousand dollars (\$500,000.00), may be substituted if approved by the State prior to its submittal.

E.7. **State Furnished Property**. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished

shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.8. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.10. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.11. Date/Time Hold Harmless. As required by *Tennessee Code Annotated*, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

E.12. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

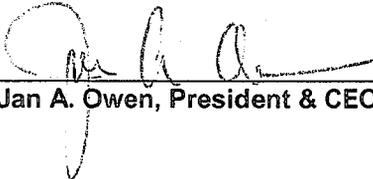
In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and

shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.13. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to **Tennessee Code Annotated**, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.14. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- E.15. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

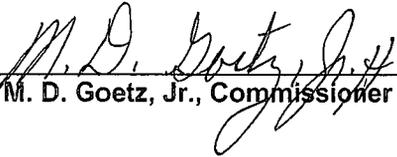
IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS, INC.:



Jan A. Owen, President & CEO Date 5/22/06

DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF MENTAL RETARDATION SERVICES:



M. D. Goetz, Jr., Commissioner Date 5-18-06

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:



M. D. Goetz, Jr., Commissioner Date JUN 15 2006

DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

Nat E. Johnson, Acting Commissioner Date

COMPTROLLER OF THE TREASURY:



John G. Morgan, Comptroller of the Treasury Date 6/16/06

ATTACHMENT 1
LIQUIDATED DAMAGES

1. CONTRACT PERFORMANCE

Liquidated damages for failure to perform specific responsibilities other than the accurate and timely submission of reports and deliverables are shown below:

Failure to fill requested positions with qualified staff ready to begin work on 7/1/06 and to keep positions filled until 12/31/06.	\$5,000 per month for each position that remains unfilled for more than 15 calendar days during the month
After 1/1/07, failure to fill requested number of positions within 30 calendar days.	\$5,000 per occurrence and an additional \$5,000 for each subsequent 30 calendar day period
Failure to remove non-performing staff within 5 calendar days of written request from ADC.	\$500 per calendar day per occurrence