

CONTRACT #18
RFS # 345.30-43814
Edison # 37287

Department of Human Services

VENDOR:
Arbor E&T d.b.a. ResCare
Workforce Services, Inc.



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanserv/

BILL HASLAM
GOVERNOR

RAQUEL HATTER, MSW, Ed.D.
COMMISSIONER

May 27, 2014

Mr. Lucian Geise, Director
Fiscal Review Committee
Tennessee General Assembly
320 6th Ave., N.
8th Floor, Rachel Jackson Building
Nashville, TN 37243

Dear Mr. Geise:

This correspondence will serve as the Summary Letter associated with our request to ensure the continuation of service delivery under the Public Exigency clause for the provision of Case Management and Employment Services for the following contract:

<u>Edison Contract #</u>	<u>Contractor Name</u>
37278	Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.

This contract was originally included as part of the initial request for all Case Management and Employment Services contracts approved by the Fiscal Review Committee at the May 5, 2014 meeting but was withdrawn in error. The department wants to retain the option to extend if necessary.

The current contract is set to expire June 30, 2014. We are requesting approval for an amendment that would continue services through December 31, 2014. Approval of this request will provide the Department time to carry out a satisfactorily competitive procurement process and transition of services to newly awarded contractors.

As of March 2014, 87% or 13,996 of 16,175 TANF clients statewide are currently participating in work activities. The remaining 12% are exempt and/or considered non-eligible adults who, according to federal guidelines outlined in the Code of Federal Regulations CFR, Title 45 Chapter II (Parts 260 through 265) and the Social Security Act, Title IV (Part A), are not required to participate in work activities. This continuation of service is requested in order to provide adequate time to transition TANF clients to new work activity providers, and avoid interruption of services to these clients. Further, in order to afford all qualified Contractors sufficient time to pose questions, receive responses to those questions, and prepare satisfactory proposals, it is

in the State's best interest to have the RFQ released well in advance of the implementation period.

Please accept my thanks in advance for the Committee's consideration of our request for an amendment to continue services for Case Management and Employment Services under the current contract. In addition to assisting the Department in obtaining the best service at a competitive price, we believe that the additional time will reduce the likelihood of a protest from a Contractor who felt that the RFQ schedule did not provide enough time to propose and implement the required services.

Sincerely,



Raquel Hatter
Commissioner

RH: dm

cc: Shalonda Cawthon, DHS Deputy Commissioner
Basil Dosunmu, DHS Deputy Commissioner
Patricia Stubblefield, Interim Assistant Commissioner for Family Assistance and Child Support
Karen Y. Walker, Director of Quality Assurance, Family Assistance Contracts
Bill Russell, DHS General Counsel
Stephen Reksten, DHS Director of Office of Procurement

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Robin Dieterich	*Contact Phone:	615-313-2270		
*Presenter's name(s):	Stephen Reksten				
Edison Contract Number: <i>(if applicable)</i>	37287	RFS Number: <i>(if applicable)</i>	34530-43814		
*Original or Proposed Contract Begin Date:	July 1, 2013	*Current or Proposed End Date:	December 31, 2014		
Current Request Amendment Number: <i>(if applicable)</i>	One				
Proposed Amendment Effective Date: <i>(if applicable)</i>	July 1, 2014				
*Department Submitting:	Department of Human Services				
*Division:	Family Assistance				
*Date Submitted:	May 30, 2014				
*Submitted Within Sixty (60) days:	No				
<i>If not, explain:</i>					
*Contract Vendor Name:	ResCare Workeforce Services				
*Current or Proposed Maximum Liability:	\$13,591,862.00				
*Estimated Total Spend for Commodities:	Not Applicable				
*Current or Proposed Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)					
FY: 2014	FY:	FY:	FY:	FY	FY
\$13,591,862.00	\$	\$	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from Edison)					
FY: 2014	FY:	FY:	FY:	FY	FY
\$ 3,332,650.28	\$	\$	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			The contract is cuttent until June 30, 2014, services and payments for said services are not yet complete for the fiscal year. The current surplus will be surplus will be consumed for payments of continued services up to July 1, 2014		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			No surplus funds have been carried forward		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			Not Applicable		

Supplemental Documentation Required for
Fiscal Review Committee

*Contract Funding Source/Amount:			
State:	\$3,397,965.50	Federal:	\$10,193,896.50
<i>Interdepartmental:</i>	\$0.00	<i>Other:</i>	\$0.00
If “ <i>other</i> ” please define:		Not Applicable	
If “ <i>interdepartmental</i> ” please define:		Not Applicable	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
Not Applicable		Not Applicable	
Method of Original Award: <i>(if applicable)</i>		Non-Competitive Negotiation	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		\$14,307,591.42 The Department used historical spend data compared to current caseload projections for FY 2014	
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.		Not Applicable	

Amendment Request

Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprrs.Agsprsr@tn.gov

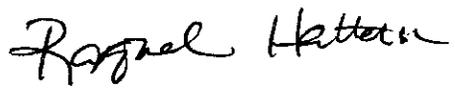
APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Request Tracking #	34530-43814-01	
1. Procuring Agency	Department of Human Services	
2. Contractor	ResCare Workforce Services, Inc.	
3. Contract #	37287	
4. Proposed Amendment #	01	
5. Edison ID #	37287	
6. Contract Begin Date		07/01/2013
7. Current Contract End Date – with ALL options to extend exercised		06/30/2014
8. Proposed Contract End Date – with ALL options to extend exercised		12/31/2014
9. Current Maximum Contract Cost – with ALL options to extend exercised		\$ 13,591,862.00
10. Proposed Maximum Contract Cost – with ALL options to extend exercised		\$ 20,237,793.00
11. Office for Information Resources Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
12. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
13. Human Resources Pre-Approval Endorsement Request – state employee training service	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
14. Explanation Need for the Proposed Amendment		
<p>Six (6) month continuation of contracted services beginning July 1, 2014 to December 31, 2014. The Temporary Assistance for Needy Families (TANF) block grant is the federal funding source for the Families First program. States receiving TANF funds must comply with a variety of requirements in order to avoid penalty and/or endanger receipt of the block grant. These requirements include the engagement of program participants in activities designed to prepare for and/or place the individual into employment. The vendor will be the entity responsible for this engagement. If the Department of Human Services does not require this service, the responsibility would fall back on the State, which currently does not have the</p>		

Request Tracking #	34530-43814-01
<p>infrastructure to deliver the services.</p> <p>The Department of Human Services and the Central Procurement Office are currently in the process of completing a competitive RFQ for the continuation of services beyond the expiration of the current contract and proposed extension and will require time to transition clients from the current vendors to the new vendors.</p>	
<p>15. Name & Address of the Contractor's Principal Owner(s) <i>– NOT required for a TN state education institution</i></p> <p>Arbor E&T, LLC d/b/a ResCare Workforce Services is a wholly-owned subsidiary of ResCare, Inc.; 9901 Linn Station Road; Louisville, KY 40223</p>	
<p>16. Evidence Contractor's Experience & Length Of Experience Providing the Goods or Services</p> <p>The Indiana IMPACT program started in December 2009, there were 23,683 mandatory cases and participation was at 17.83%. Over the past three years and a half, ResCare helped stabilize the program and assisted the state to make enlightened policy adjustments for sanctions and medical exempt cases. This work has helped the State of Indiana avoid \$10-17 Million in federal sanctions.</p> <p>The current mandatory case load is 4,242 for Indiana. The state is no longer at risk for federal sanctions with the participation rate 33.81% points above their case credit adjustment target. Their focus has always been on moving families to self-sufficiency. In 2011 we helped 7000 TANF applicant and payment families exit via employment. In 2012 we reached 5,000 placements.</p> <p>Another example of ResCare's success rate is with the state of Ohio. In 2011 Ohio was under the threat of severe financial penalty as the result of not meeting the federal TANF participation rate. Ohio contracted with ResCare to increase the participation rate. In November 2011 the participation rate was 29.61% by November 2012 the participation rate had grown to 50.89% for Franklin County. Another county in Ohio that showed a significant increase was Stark County in November 2011 the participation rate was 49.92% and in November 2012, the participation rate had increased to 70.32%</p> <p>ResCare has over 40 year experience providing employment and training services to TANF clients in 11 states including Washington, D.C.</p>	
<p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>A competitive RFQ for the continuation of services is currently under development and pending internal approvals for publication. We anticipate the RFQ process to be complete and new vendors identified before December 31, 2014.</p>	
<p>18. Justification</p> <p>The vendor has an existing contract that expires June 30, 2014. It would be extremely difficult to secure a new vendor for only six (6) months given the investment in infrastructure, staff, and planning that would be necessary to assume the responsibilities required in the scope of the contract.</p> <p>The Department is exploring options for an entirely new service delivery model for Families First beginning January 1, 2015. To provide consistency in service delivery in the months prior to implementing a new model, the Department believes it is in the best interest of the State to utilize this vendor for an additional six months and to allow sufficient time for the transition of existing clients.</p>	

Request Tracking #	34530-43814-01
Agency Head Signature and Date – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented circumstances</i>	
	



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 34530-43814-01	Edison ID 37287	Contract # FA	Amendment # 1		
Contractor Legal Entity Name Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.			Edison Vendor ID 165551		
Amendment Purpose & Effect(s) Change in funding, wording, and dates.					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: December 31, 2014			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 6,645,931.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014	\$3,397,965.50	\$10,193,896.50	0.00	0.00	\$13,591,862.00
2015	\$1,661,482.75	\$4,984,448.25			\$6,645,931.00
TOTAL:	\$5,059,448.25	\$15,178,344.75	0.00	0.00	\$20,237,793.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. <h2 style="margin: 0;">Basil A. Dosunmu</h2>			<i>CPO USE</i>		
Speed Chart (optional) HS00000352		Account Code (optional) 7089000			

**AMENDMENT ONE
OF CONTRACT 37287**

This Amendment is made and entered by and between the State of Tennessee, Department of Human Services, hereinafter referred to as the "State" and Arbor E&T LLC d/b/a ResCare Workforce Services, Inc., hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section A.4. d.iii. is deleted in its entirety and replaced with the following:
 - (d.iii.) During the six (6) month period, beginning July 1, 2014 and ending December 31, 2014, the Contractor shall ensure that a Work Experience Services placement will not exceed a maximum of six (6) months for a referred client.

2. Contract section A.4. e.ii. is deleted in its entirety and replaced with the following:
 - (e.ii.) During the six (6) month period, beginning July 1, 2014 and ending December 31, 2014 the Contractor shall not exceed a three (3) months of community services activities for referred clients.

3. Contract section A.11. is deleted in its entirety and replaced with the following:

A.11. The Contractor shall meet or exceed the following outcomes on a semi-annual basis for clients referred under Tier One—**Clients with challenges to employment:**

 - (i) Thirty-five percent (35%) of clients referred and engaged with the Contractor for work activities at least three (3) months shall be placed in part-time employment; and
 - (ii) Twenty-five percent (25%) of clients referred and engaged with the Contractor for work activities for at least six (6) months shall be placed in thirty (30) hours of employment; and
 - (iii) Forty percent (40%) of clients referred and engaged in work activities with the Contractor who have not earned a high school diploma or GED shall attain their GED prior to December 31, 2014.

4. Contract section A.13.i is deleted and replaced with the following:
 - (i) For failure to maintain a WPR of sixty-five percent (65%) for each month during the period beginning July 1, 2013 through December 31, 2014, a two and one half percent (2.5%) reduction shall be applied to the total compensation invoiced for that month.

5. The following is added as Contract section A.13. New Sub-Section (iv).
 - (iv) For failure to meet all Performance Measure Outcomes for the period beginning July 1, 2014 and ending December 31, 2014, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.

6. The following is added as Contract section A.13. New Sub-Section (c.).
 - c. Liquidated damages, if applicable, will be assessed, as provided by Attachment B-1, through a reduction of payment to the Contractor from the December 2014 invoice for insufficient performance outcome measurements via reduction of payment from the invoice of the following month the WPR was not met.

7. Contract section B is deleted in its entirety and replaced with the following:

B. CONTRACT PERIOD

This Contract shall be effective for the period beginning July 1, 2013, and ending on December 31, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

8. Contract section D.3. is deleted in its entirety and replaced with the following:

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 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.

9. 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 Twenty Million Two Hundred Thirty-Seven Thousand Seven Hundred Ninety-Three Dollars and No Cents (\$20,237,793.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor 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 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.

10. Contract section C.3. is deleted in its entirety and replaced with the following:

C.3. Payment Methodology. The Contractor shall be compensated based on the payment 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.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
Provide core and non-core activities.	\$996,889.65/month
Transportation services to clients. E.g., cash reimbursement, bus card, gas card, taxi, and/or van service. The Contractor must use at least seven percent (7%) of budgeted funds on transportation services	\$465,215.17/FY year
Support Services to clients. e.g., vision (not covered by medical insurance), uniforms, test fees. Contractor must use at least three percent (3%) of budgeted funds on support services.	\$199,377.93/FY year

The State will monitor TANF caseload numbers monthly to determine changes. In the event the Contractor experiences a fifteen percent (15%) increase or reduction from the initial projected caseload number for the requested Tier service provided, then the State will adjust the maximum liability of the contract to reflect the changes in the Contractor's active caseload.

***NOTICE:** The amount(s) per compensable increment detailed above shall be contingent upon the State's receipt of an invoice (as required in section C.5., below) for said service(s) within thirty (30) days after the end of the calendar month in which the service(s) were rendered. At the sole discretion of the State, the amount per compensable increment of any service for which the State receives an invoice later than prescribed herein shall be subject to a reduction in amount up to One Hundred Per Cent (100%). In the case of an untimely invoice, before any payment will be considered by the State, the Contractor must submit a written request regarding the untimely invoice, which shall detail the reason the invoice is untimely as well as the Contractor's plan for submitting all future invoices no later than prescribed herein. The request must be signed by an individual empowered to bind the Contractor to this Contract.

11. Contract section E.2. is deleted in its entirety and replaced with the following:

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 certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Patricia Stubblefield, Interim Assistant Commissioner, Family Assistance/Child Support
 Department of Human Services
 400 Deaderick Street
 Nashville, TN 37243-1403
Patricia.Stubblefield@tn.gov
 Telephone # (615) 597-4725 ext.103
 FAX # (615) 741-4165

The Contractor:

Kevin D. Gailfoil, Esq. Contracts Manager
 Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.
 9901 Linn Station Road
 Louisville, KY 40223
Kevin.Gailfoil@rescare.com
 Telephone # (502) 420-2527
 FAX # (502) 394-2353

Steve Reed, Chief Legal Officer
 Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.
 9901 Linn Station Road
 Louisville, KY 40223
Steve.Reed@rescare.com
 Telephone # (502) 394-2399
 FAX # (502) 394-2353

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

12. The following is added as Contract section E.26.:

E.26. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies and/or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

a. Reporting of Total Compensation of the Contractor's Executives.

- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
 - i. 80 percent or more of the Contractor's annual gross revenues from Federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

Executive means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend its term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the amendment to this Contract becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at:
<http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

13. The following is added as Contract section E.27.:

E.27. Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

14. Contract Attachment B-1 attached hereto is added as a new attachment.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective July 1, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.:

MICHAEL B. HOUGH, OPERATIONS OFFICER

DATE

DEPARTMENT OF HUMAN SERVICES:

RAQUEL HATTER, COMMISSIONER

DATE

ATTACHMENT B-1

LIQUIDATED DAMAGES

For failure to maintain a WPR of fifty-five percent (55%) for each month during the period of July 1, 2014 through December 31, 2014, a two and one half percent (2.5%) reduction shall be applied to the total compensation invoiced for that month.

Failure to meet all Performance Measure Outcomes for the period beginning July 1, 2014 and ending December 31, 2014, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.

Liquidated damages, if applicable, will be assessed via reduction of payment from the following month's invoice.



CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date July 1, 2013	End Date June 30, 2014	Agency Tracking # 34530-43814	Edison Record ID 37287
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Contractor Legal Entity Name Arbor E&T LLC d/b/a ResCare Workforce Services Inc.	Edison Vendor ID 165551
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Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA # 93.558	FEIN or SSN (optional)
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Service Caption (one line only)
Families First Case Management and Employment Services

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014	\$3,397,965.50	\$10,193,896.50	\$0.00	\$0.00	\$13,591,862.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
TOTAL:	\$3,397,965.50	\$10,193,896.50	\$0.00	\$0.00	\$13,591,862.00

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Ownership/Control

African American
 Asian
 Hispanic
 Native American
 Female
 Person w/Disability
 Small Business
 Government
 NOT Minority/Disadvantaged
 Other: _____

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

<input type="checkbox"/> RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
<input type="checkbox"/> Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input checked="" type="checkbox"/> Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
<input type="checkbox"/> Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> parties in a predetermined "class."

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Basil A. Dosunmu

OCR USE - FA

Speed Code (optional) HS00000352	Account Code (optional) 70899000
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**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF HUMAN SERVICES
AND
ARBOR E&T, LLC. D/B/A RESCARE WORKFORCE SERVICES, INC.**

This Contract, by and between the State of Tennessee, Department of Human Services, hereinafter referred to as the "State" and Arbor E&T LLC d/b/a ResCare Workforce Services, Inc., hereinafter referred to as the "Contractor," is for the provision of Families First Case Management and Employment Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation.

Contractor's Place of Incorporation or Organization: Kentucky

Contractor's Edison Registration ID #: 165551

A. SCOPE OF SERVICES:

Contractor Responsibilities

- A.1. a. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- b. The Contractor shall provide Families First Employment and Case Management Services in Contractor Zone F. (Reference Attachment A, Contractor Zones.)
- c. The Contractor shall maintain an infrastructure so that clients have full access to activities and services without being required to travel more than forty (40) miles or forty-five (45) minutes from their residence.
- A.2. a. The Contractor shall provide the client with advance notification of work activity, location, and daily schedule and document the notice.
- b. The Contractor shall supervise the following work activities, in a manner that will satisfy the requirements of the State of Tennessee Work Verification Plan as incorporated herein by reference, and any amendments to the Plan;
- (i) Subsidized and Unsubsidized Employment;
 - (ii) Job Search and Job Readiness Assistance;
 - (iii) Work Experience;
 - (iv) Community Service Placements;
 - (v) Vocational Educational Training;
 - (vi) Adult Education; and,
 - (vii) Job Skills Training Directly Related to Employment



A.3. **Career Assessment**

- a. The Contractor shall conduct career assessments using an assessment tool approved by the State. The assessment shall match a client's strengths with the best available employment plans, provide support services needed for full engagement, conduct job placement, retention and wage progression activities, maintain individual client work activity documentation, and report any changes in the status of a client's work activity to the State.
- b. The Contractor shall assess each client referred, using the assessment tool approved by the State, to identify characteristics that will guide the client in the development of short and long-term goals for the purpose of moving the client into full-time, unsubsidized employment. The assessment shall be conducted by the Contractor and supplemented by a barrier assessment designed to identify barriers that would preclude the client from achieving full-time, unsubsidized employment.
- c. Following the assessment, the Contractor shall develop an individualized career plan utilizing the assessment tool, the client's input, and any input received from the Department of Human Services (DHS) Client Representative (CR). This plan shall be reviewed with the client and signed by the client to ensure that both the client and Contractor have a clear understanding of the stated goals, expectations, requirements, and timeframes. Assessments and Individual Career Plan (ICP) shall be completed within thirty (30) days from date the client is first seen by the Contractor. In addition, the Assessments and ICP shall be reviewed and updated annually.

A.4. **Work Activities and Required Hours**

The Contractor shall ensure that clients are engaged a minimum of thirty (30) hours per week in activities which meet all State and Federal guidelines and restrictions. Twenty (20) of the total thirty (30) hours must be in core activities, with the balance to include core or non-core hours or any combination thereof. Non-core hours may count toward ten (10) of the required thirty (30) hours per week. At the sole discretion of the State, these requirements may be waived.

Core Activities

Core activities are:

A.4. a. **Unsubsidized Employment**

Full or part-time employment in the public or private sector that is not subsidized by Temporary Aid to Needy Families (TANF) or any other public program.

b. **Subsidized Employment**

Employment for which the employer receives a subsidy to offset some or all of the wages and costs of employing a client. The Contractor shall bear sole financial responsibility for paying subsidies to employers for subsidized employment of clients.



(i) Subsidized Public Sector Employment

Employment in the public sector for which the employer receives a subsidy to offset some or all of the wages and costs of employing a client.

(ii) Subsidized Private Sector Employment

Employment in the private sector for which the employer receives a subsidy to offset some or all of the wages and costs of employing a client.

c. Job Search and Job Readiness Assistance

(i) Job Search and Job Readiness Assistance is the process of seeking or obtaining employment, preparation to seek or obtain employment, including substance abuse treatment, mental health treatment, or rehabilitation activities, and life skills training (e.g.: Fresh Start and/or PACE, interviewing skills) for those who are otherwise employable). The Contractor shall:

- a) Work with the DHS Client Representative for the success of all clients.
- b) Work closely with the DHS Client Representative to ensure each client is taking full advantage of all services offered, including training and education.
- c) Ensure that thirty percent (30%) of all clients served by a provider enter skill training approved by the Department; and
- d) Ensure that the client obtains an increase of ten percent (10%) above the client entry level wage.

(ii) The Contractor shall have access to Family Services Counseling (FSC) services, provided by the State, and may utilize FSC as a countable activity under "Job Readiness."

(iii) The Contractor shall:

- a) Collaborate with DHS Client Representative and clients to identify and remove barriers to gainful employment;
- b) Arrange a full assessment for the individual;
- c) Use the Tennessee Department of Labor website http://www.state.tn.us/education/cte_council/publications.shtml to identify jobs based on labor market conditions and in-demand occupations within targeted geographic areas;
- d) Prepare the client to enter an occupation that pays a minimum of an Eight Dollars (\$8.00) hourly rate;
- e) Promote the client's entry into a job that has a career path that has a wage rate ten percent (10%) above the minimum wage rate;



- f) Promote training and lifelong learning to ensure job retention. Lifelong learning shall be an "ongoing, voluntary, and self-motivated" pursuit of knowledge for either personal or professional reasons by the client;
- g) Monitor/counsel all clients through training courses. The Contractor shall conduct weekly contacts with clients to provide counseling and activity compliance;
- h) Obtain jobs for clients that will pay benefits within one (1) year. Benefits shall include, but are not limited to, health and dental;
- i) Provide job coaching and counseling to assist the client with upward career movement and wage increase;
- j) Address barrier identification and removal. Barriers to be addressed shall include, but are not limited to: transportation, child care and/or lack of employment experience;
- k) Provide peer and case management support groups;
- l) Identify employer and employment performance problems and assist in the resolution;
- m) Mediate between the employee and the employer in cases of discrimination or harassment and report all such incidents to the State;
- n) Help the client to access support services; and,
- o) Link up mentors for clients either on the job or from the community.

d. **Work Experience**

- (i) A work activity is one that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain unsubsidized employment for that employer.
- (ii) The Contractor shall ensure that client work experience placements lead to a bona fide position that is becoming available with an employer. Work experience sites must be pre-approved in writing by the State to ensure location meets requirements as defined in the State of Tennessee Families First Work Verification Plan as incorporated herein by reference and any amendments to the Plan.
- (iii) During the twelve (12) month period, beginning July 1, 2013 and ending June 30, 2014, the Contractor shall ensure that a Work Experience Services placement will not exceed a maximum of six (6) months for a referred client.
- (iv) The Contractor shall submit a written request for State approval to extend the six (6) month period, should the minimum qualifications for a given job exceed the maximum period mandated by the State.
- (v) The Contractor shall create Work Experience assignments to: (a) align with client's work aspirations and congruent with the ICP, (b) secure a recent and



useful work reference, and (c) provide constant feedback to the client on work strengths and needs in a safe environment in order to observe growth and work readiness development.

- (vi) The Contractor shall include the client in the process of determining what the client will learn, establishing benchmarks for the client's progress, and developing measures for the client's skill achievement.
- (vii) The Contractor shall develop a minimum of two (2) Work Experience sites per month and monitor participation and coach the client at the job site, when necessary.
- (viii) The Contractor shall submit a written request for State approval of all Work Experience sites prior to client engagement.

e. **Community Service Programs**

- (i) Community Service Programs are structured programs in which TANF clients perform work for the direct benefit of the community under the auspices of public or nonprofit organizations. Community services sites must be pre-approved in writing by the State to ensure location meets requirements as defined in the State of Tennessee Families First Plan as incorporated herein by reference, and any amendments to the Plan.
- (ii) During the twelve (12) month period, beginning July 1, 2013 and ending June 30, 2014 the Contractor shall not exceed a three (3) months maximum of community services activities for referred clients.
- (iii) The Contractor shall submit a written request for approval of all Work Experience sites from the State prior to client engagement.

f. **Vocational Education Training**

- (i) Vocational Education Training consists of organized educational programs that are directly related to the preparation of individuals for employment for a specific trade, occupation, or vocation in current or emerging occupations requiring training other than a baccalaureate or advanced degree.
- (ii) Vocational Education Training (Job Skill Training) is industry specific training/employer specific training; or Post-secondary Education in a skill identified as a demand occupation in that community.
- (iii) Contractors shall contact employers in the community to determine the training needs of that county.
- (iv) The Contractor shall first seek PELL eligible training courses with specific industry credentialing or measurable skill outcomes such as recognized certification or licensing.
- (v) Job Training must prepare the client to earn an entry level wage at a minimum of Eight Dollars (\$8.00) per hour.



- (vi) If possible, the client's job, while in training, shall be in a field related to the job training. For example, if the training is Pharmacy Technician Training, the job should be in a pharmacy, if at all possible.
- (vii) The Contractor shall verify the weekly attendance and grades of the clients enrolled in Vocational Education training. The Contractor shall use weekly attendance logs signed by the instructor and copies of the client's progress reports issued by the Vocational Educational training site.
- (viii) The Contractor shall provide application assistance for PELL grants, scholarships, etc. Each client who enters Vocational Education training must apply for a PELL grant, and if found ineligible due to prior default on a Federal Loan will be assisted by the Contractor in gaining re-entry eligibility to PELL.
- (ix) The Contractor shall ensure that Vocational Educational Training is provided by education and training organizations certified by the State of Tennessee or a comparable certifying authority, including, but not limited to, vocational-technical schools, community colleges, post-secondary institutions, proprietary schools, non-profit organizations, and secondary schools that offer vocational education, and that lead to a portable, industry-recognized credential.
- (x) The Contractor shall ensure that each client maintains satisfactory progress in Adult Education and Vocational Educational Training. Satisfactory progress is defined as progress which includes both quantitative (i.e. timeframe) and qualitative (i.e. grade point average) measures as defined by the educational and training facility in which the client is enrolled.

Non-core activities

A.5. Adult Education

- a. Adult Education consists of regular attendance, in accordance with the requirements of the secondary school or course of study at a secondary school, or in a course of study leading to a certificate of general equivalence (GED) or a high school diploma.
- b. GED preparation shall be offered to all individuals who do not have a high school diploma or GED.
- c. All Families First clients without a high school diploma or GED who elect to pursue this path will be tested with either a Test for Adult Basic Education (TABE) or other DHS approved testing instrument.
- d. All Adult Education classes will address the Knowledge, Skills, and Abilities (KSAs) identified in the Tennessee School Counseling and Career Guidance Standards as articulated in the State Board of Education's Master Plan For Tennessee Schools. Curricula will incorporate exercises and learning opportunities that replicate the world of work. <http://www.tennessee.gov/education/ci/counsel/>
- e. The Contractor shall work with community agencies or the Department of Education to identify Adult Education classes. A client, who is determined to not be making progress toward an educational goal after three (3) months, shall be referred back to DHS within three (3) days after the three (3) month time limit.



- f. Adult Education shall be taught by experienced certified teachers or the teacher must work under the supervision of a certified teacher.
- g. The Contractor shall verify weekly attendance and grades of the clients enrolled in Adult Education training. The Contractor shall use weekly attendance logs signed by the instructor and copies of the client's progress reports issued by the Adult Education training site.

A.6. Job Skills Training Directly Related to Employment

- a. Job Skills Training Directly Related to Employment is training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance to a higher position based on salary and responsibility or adapt to the changing demands of the workplace. The entry-level wages resulting from this training will equal at least minimum wage.
- b. Job skills training directly related to employment or soft skills training may contain skills such as key boarding, specific employer tasks such as keyboarding, data entry, telecommunications, and customer service skills, but is not a competency based or certificate training program.
- c. All training offered will be in a "demand occupation" as defined by the Tennessee Department of Labor and Workforce Development. The Contractor shall work with employers to locate the best jobs available, to prepare clients for those jobs to move the family out of poverty.
- d. Demand occupations for Tennessee may be found at the following website: http://www.state.tn.us/education/cte_council/publications.shtml

Transportation and Support Services

- A.7. The Contractor shall ensure that each referred client has transportation if necessary to comply with the work activity requirement. Any available community transportation resources that meet the needs of the client shall be utilized before expending contract funds on this service. The Contractor shall offer transportation assistance in the form of cash reimbursement, bus cards, or reloadable gas cards. The Contractor may also utilize taxi and van services as forms of transportation for the client. The Contractor shall be liable for all transportation service payments.
- A.8.
 - a. The Contractor shall provide client support services, as stated in the following paragraph, that will assist in overcoming barriers to achieving short and long-term goals established for each individual client. The Contractor shall, upon notification from the DHS Client Representative, provide support services that will appropriately assist the client in removing barriers. In the event the State is unaware of a client's need for a support service(s) to overcome an immediate barrier, the Contractor shall provide the service(s) without seeking prior approval from the State.
 - b. Support services may include, but are not limited to, work clothes, tools, licenses, certification tests, auto insurance payments, vehicle repairs, car payments, hearing aids, dental service, eyeglasses, and counseling to address barriers to work. Medical support services cannot be provided if those services are covered by TennCare/Medicaid or TennCare/Standard. The Contractor shall assume all financial responsibility for providing transportation and non-medical support services.



- A.9. The Contractor shall transmit a Support Services Report to the State on a monthly basis, or as requested by the State, utilizing a method and in a format approved by the State consisting of:
- a. The categories of support services;
 - b. The number of clients served in each category; and
 - c. The amount spent per support service.

Performance Outcome Measures

- A.10. a. The Contractor shall maintain a monthly Contractor Work Participation Rate (WPR) of at least fifty-five percent (55%) for all clients referred who have an open Families First case.
- b. Calculation of the WPR
- (i) To calculate the WPR, the State will determine each month how many individuals were referred to the contractor, and how many individuals remain as open cases in the Contractor's caseload from prior months.
 - (ii) If the Contractor has provided services immediately prior to the beginning date of this Contract, the calculation of the Contractor WPR for the first month of this Contract, will be determined by the number of individuals referred during the month, and by adding the number of individuals remaining in the Contractor's caseload at the end of the preceding month. The resulting sum is the denominator of the Contractor's WPR.
 - (iii) The numerator is the number of individuals who meet the criteria for full engagement of thirty (30) hours per week.
- A.11. The Contractor shall meet or exceed the following outcomes on a semi-annual basis for clients referred under Tier One—**Clients with challenges to employment:**
- (i) Thirty-five percent (35%) of clients referred and engaged with the Contractor for work activities at least three (3) months shall be placed in part-time employment; and
 - (ii) Twenty-five percent (25%) of clients referred and engaged with the Contractor for work activities for at least six (6) months shall be placed in thirty (30) hours of employment; and
 - (iii) Forty percent (40%) of clients referred and engaged in work activities with the Contractor who have not earned a high school diploma or GED shall attain their GED prior to June 30, 2014.
- A.12. a. The Contractor shall submit a Corrective Action Plan, which shall be subject to the State's approval, describing its strategy(ies) for complying within fourteen (14) calendar days following Contractor notification by the State.
- b. A Corrective Action Plan is required for the following situations:
- (i) When the Contractor's WPR for each month in which it fails to attain or maintain the required minimum of fifty-five percent (55%); or



- (ii) When the State's monitoring of the Contractor's compliance with the State of Tennessee Families First Work Verification Plan, and any amendment to the Plan, reveals that items being validated have a greater than five percent (5%) error rate; or
 - (iii) When the Contractor fails to meet quarterly Performance Outcome Measures.
- A.13. a. Notwithstanding the submission of the requisite Corrective Action Plan for the State's consideration and approval, the Contractor's failure to meet the required Contractor WPR and Performance Outcome Measures shall subject the Contractor to Liquidated Damages, as follows:
- (i) For failure to maintain a WPR of fifty-five percent (55%) for each month during the period beginning July 1, 2013 through June 30, 2014, a two and one half percent (2.5%) reduction shall be applied to the total compensation invoiced for that month.
 - (ii) For failure to meet all Performance Measure Outcomes for the period beginning July 1, 2013 and ending December 31, 2013, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.
 - (iii) For failure to meet all Performance Measure Outcomes for the period beginning January 1, 2014 and ending June 30, 2014, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.
- b. Liquidated damages, if applicable, will be assessed, as provided by Attachment B, through a reduction of payment to the Contractor from the January 2014 and the June 2014 invoices for insufficient performance outcome measurements via reduction of payment from the invoice of the following month the WPR was not met.

Program Integrity

- A.14. a. The Contractor shall enter the following data into the eligibility and case management system by Friday of each week or as soon as a client's activity changes:
- (i) Current activities and planned hours for each client;
 - (ii) Attendance for each activity, including excused and unexcused absences as required;
 - (iii) Weekly hours per activity; and
 - (iv) Notices to non-compliant clients.
- A.15. The Contractor shall report to the State any change in a client's employment status and shall provide the client's employer's name and the client's employment hours and rate of pay and any other changes in status regarding work activities as soon as they become known to the Contractor.



- A.16. The Contractor shall enter and update, as needed, work activities for each client in the State's eligibility and case management system via the Internet using instructions provided by the State.
- A.17. The Contractor shall maintain adequate staff to cover Employment and Career Counseling, Data Entry, Job Development, Case Management and Client Tracking.

Case File Maintenance and Documentation Requirements

- A.18. a. The Contractor shall develop and maintain a system to manage documentation and ensure compliance with the State of Tennessee Families First Work Verification Plan, and any amendments to the Plan. The Contractor shall provide all necessary documentation to support performance outcomes. The Contractor shall maintain in each client's file documentation, as stated in subparagraphs b.-d., to support employment.

b. **For clients employed less than one month:**

The Contractor shall maintain a written employer statement to include all pertinent client and company information to include the following:

- (i) Client's personal information full name, address, and contact number;
- (ii) Date of hire;
- (iii) Title of position;
- (iv) Total hours worked weekly;
- (v) Rate of pay;
- (vi) Pay frequency; and
- (vii) Employer's information consisting of: the company name, address, contact number, title of person completing form and their signature and date completed.

c. **For clients employed one month or more:**

The Contractor shall maintain at least two (2) pay stub(s), or payroll data system print out that is no more than two weeks old and contains all pertinent client and company information to include the following:

- (i) Client's full name;
- (ii) Start and end dates per pay period;
- (iii) Total hours worked per pay period;
- (iv) Hourly wage;
- (v) Gross wage amount;
- (vi) Net wage amount; and



- (vii) Employer's information to include Company Name, address, contact number, title of person completing form, their signature and date completed.
- d. **For Self-employed clients who are employed less than one month:**
- (i) The Contractor must provide a completed self-employment calendar, provided by the State, that details the amount earned for each day worked;
 - (ii) After sixty (60) days of self-employment, the client must provide DHS and the WAC (if applicable) two (2) completed self-employment calendars;
 - (iii) Clients that have been self-employed more than sixty (60) days must provide two (2) completed self-employment calendars (current month of application or review month and the previous month) or the 1099 form for the previous tax year, or the 1040 income tax form and income documentation submitted for the current year or previous year.
- e. The State will not accept the following as employment verification for any client's employment status in subparagraphs b.-d.:
- (i) Client's statement of employment without supporting documentation;
 - (ii) Printed screens from ACCENT or other data management systems;
 - (iii) Incomplete employer statements;
 - (iv) Incomplete self-employment calendars or self-employment calendars where clients earn less than minimum wage; and
 - (v) Pay stubs that are older than six (6) months.

Work Experience and Community Services Documentation:

- A.19. The Contractor shall maintain a file for each work experience and community site approved to accept placements in a format approved by the State. This site file may be maintained on an agency or specific site level, but must contain the following items at minimum:
- a. Executed site agreement, utilizing format approved by the State of Tennessee;
 - b. Plan for providing daily supervision by the Contractor;
 - c. Documentation that site satisfies requirements from the State of Tennessee Families First Work Verification Plan, and any amendments to the Plan;
 - d. Documentation of prior approval of the site by the State;
 - e. Holiday leave policy for the Contractor;
 - f. For Work Experience placements, it must also include:
 - (i) The potential placements that are expected to be available for participating clients at the end of the work experience placement, and



- (ii) Skills to be taught in the placement.
- (iii) For Community Service placements, it must also include:
 - a) How the placement provides direct benefit to the community;
 - b) A copy of the agencies 501(c)(3) and,
 - c) Documentation that sites satisfies requirements from the State of Tennessee Families First Work Verification Plan, and any amendments to the Plan.

- A.20. The Contractor shall, upon request of the DHS Client Representative, participate in a review of the client's progress, and where necessary, develop a corrective action plan to ensure sufficient progress toward unsubsidized employment.
- A.21. The Contractor shall ensure that a complete copy of the client's file is transferred to a subsequent contractor immediately upon being notified the client has moved to another Contractor Zone, or, in any other situation where a new Contractor, or the State, assumes responsibility for the client.
- A.22. The Contractor shall destroy sensitive client information when the documentation is no longer required. The method of destruction must conform to all applicable State and Federal laws, and with any instructions from the State. The State must be notified in writing of the names of all clients' files that are destroyed within three (3) days of their destruction.

Translation Services

- A.23. a. The Contractor shall provide written correspondence in Spanish when Spanish is the primary language of the client.
- b. Until the Contractor has independently determined that English is the primary language of the client, all written correspondence must include a copy of the State-provided six (6) language notice attached to the correspondence. The six (6) language notice is for the purpose of facilitating communication between the client and Contractor when English is not the primary language.

Community Relationships and Resources

- A.24. a. The Contractor shall develop and maintain a community network sufficient to deliver services to clients so that the required Contractor WPR is met. This network may include subcontractors and other partners.
- b. The Contractor shall request approval, and the State must approve in writing, all subcontractors and partners prior to client placement.

Training Requirements, Confidentiality Requirements and Data Security Protocol

- A.25. a. The Contractor shall train staff to ensure they understand State program and fiscal policies and procedures and client record and computer confidentiality requirements.
- b. The Contractor shall continually provide updates to staff in order to ensure that staff is fully informed of all changes in State program and fiscal policy procedures and confidentiality requirements.



- c. All staff with computer access shall complete a State Computer Security Agreement immediately upon employment and all employees shall annually complete computer security training provided by the State. Computer security training and refresher training shall be provided between annual training, as needed.
- d. The Contractor shall follow the State's data security protocol in order to have access to the State's eligibility and case management system, and shall notify the State immediately upon reasonable cause to believe that a breach of system security has occurred.

A.26. The Contractor shall ensure that it maintains minimum standards for computer hardware and software approved by the State in order to access the eligibility and case management system, and shall maintain compatible e-mail accounts in order to communicate with, and receive information from the State by e-mail.

Conciliation Process

- A.27. a. The Contractor will attempt to engage clients who are non-compliant with their Work Activity requirements within a five (5) consecutive business day period prior to referring the client's case to DHS for non-compliance and determination if sanctions will be imposed.
- (i) On the first day, following the date of non-compliance, the Contractor will send a written notice to the client to inform the client of his/her non-compliance; and
 - (ii) The Contractor shall attempt to contact the client by telephone throughout the five (5) business day period. Each call shall be attempted at different times during the five (5) business day period.
 - (iii) If the client fails to become re-engaged after the written notice and the telephone contact attempts, the Contractor shall refer the client to DHS for good cause determination and possible sanctions.
 - (iv) The Contractor will document all attempts to engage the client in the Department's eligibility cases record system, or as otherwise directed by the Department.

State Responsibilities

- A.28. a. The State will assign each client to a DHS Client Representative who will provide to the client a comprehensive orientation about Temporary Aid to Needy Families (TANF) program requirements and changes prior to referring the client to the Contractor for assessment and Work Activity engagement.
- b. The Client Representative will assess each TANF client prior to referral to determine the best tier for the client. The client tiers are defined as follows:
- (i) Tier One clients who have challenges to employment that may include, but not limited to, barriers due to lack of employment experience, learning disabilities, child care, transportation, a criminal record, or substance abuse;
 - (ii) Tier Two clients who may at the time of referral be employed part-time or have work experience within the last six (6) months. These clients are considered work-ready and without barriers associated with transportation or child care;



- (iii) Tier Three clients are, at the time of referral, employed thirty (30) or more hours per week and are eligible to receive cash benefits.

- A.29. The State will refer clients to the Contractor and will share any relevant information with the Contractor.
- A.30. The State will monitor client progress and Contractor performance for each client.
- A.31. The State will arrange for the provision of child care for the dependent children of the client utilizing a network of child care certificate providers.
- A.32. The State will update the client case record with employment information and income information for eligibility purposes.
- A.33. The State will notify the Contractor of changes to the status of the client, including case closure, incapacity decisions, or other factors that affect the Contractor's obligation to serve the client.
- A.34. The State may remove a client from the Contractor's caseload when a referral to the State's Medical Evaluation Unit for a medical review is necessary to determine incapacity or disability.
- A.35. The State will manage the sanction process for non-compliant clients.
- A.36. The State will provide translation services accessible via the telephone and will provide a copy of the six-language notice guide.
- A.37. The State will provide access to the State's eligibility and case management system necessary to fulfill the contract requirements.
- A.38. The State will provide access to policy manuals and updates thereto, bulletins, memorandums and any other publications that are required to successfully perform under the contract.
- A.39. The State will provide each Contractor with a monthly Contractor WPR report that is based on all referred clients.
- A.40. The State will follow the sanction/conciliation procedures outlined in the Families First Policy manual, Section 34.2.1 for clients who are non-compliant with work requirements.

B. CONTRACT PERIOD:

This Contract shall be effective for the period beginning July 1, 2013, and ending on June 30, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Thirteen Million Five Hundred Ninety-One Thousand Eight Hundred Sixty-Two Dollars and No Cents (\$13,591,862.00).

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.

- C.2. Compensation Firm. The payment 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 payment 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.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
 - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	*Amount (per compensable increment)
Provide core and non-core activities.	\$994,389.65/ Month
Start-up cost not to exceed \$300,000.00	\$300,000.00/ Fiscal Year 2014
Transportation Services to clients. e.g., cash reimbursement, bus card, gas card, taxi and/or van service The Contractor must use at least seven percent (7%) of budgeted funds on transportation services.	\$951,430.34/ Fiscal Year 2014
Support Services to clients. e.g., vision (not covered by medical insurance), uniforms, test fees. Contractor must use at least three percent (3%) of budgeted funds on support services.	\$407,755.86/ Fiscal Year 2014

The State will monitor TANF caseload numbers monthly to determine changes. In the event the Contractor experiences a fifteen percent (15%) increase or reduction from the initial projected caseload number for the requested Tier service provided, then the State will adjust the maximum liability of the contract to reflect the changes in the Contractor's active caseload.

***NOTICE:** The amount(s) per compensable increment detailed above shall be contingent upon the State's receipt of an invoice (as required in section C.5., below) for said service(s) within thirty (30) days after the end of the calendar month in which the service(s) were rendered. At the sole discretion of the State, the amount per compensable increment of any service for which the State receives an invoice later than prescribed herein shall be subject to a reduction in amount up to One Hundred Per Cent (100%). In the case of an untimely invoice, before any payment will be considered by the State, the Contractor must submit a written request regarding the untimely invoice, which shall detail the reason the invoice is untimely as well as the Contractor's plan for



submitting all future invoices no later than prescribed herein. The request must be signed by an individual empowered to bind the Contractor to this Contract.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Anna Elsberry, Director, Family Assistance Contracts
 Department of Human Services
 12th Floor; Citizens Plaza Building
 400 Deaderick Street
 Nashville, TN 37243-1403

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (i) Invoice Number (assigned by the Contractor);
 - (ii) Invoice Date;
 - (iii) Contract Number (assigned by the State);
 - (iv) Customer Account Name: Department of Human Services, Division of Adult & Family Services;
 - (v) Customer Account Number (assigned by the Contractor to the above-referenced Customer);
 - (vi) Contractor's Name;
 - (vii) Contractor's Tennessee Edison Registration ID Number Referenced in Preamble of this Contract;
 - (viii) Contractor's Contact for Invoice Questions (name, phone, and/or fax);
 - (ix) Contractor's Remittance Address;
 - (x) Description of Delivered Service;
 - (xi) Complete Itemization of Charges, which shall detail the following:
 - a) Service or Milestone Description (including name & title as applicable) of each service invoiced;
 - b) Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - c) Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - d) Amount Due by Service;
 - e) Total Amount Due for the invoice period.
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (i) Include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (ii) Only be submitted for completed service and shall not include any charge for future work;
 - (iii) Not include sales tax or shipping charges; and



- (iv) Initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. 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.8. 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.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, 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).
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.
- D. STANDARD TERMS AND CONDITIONS:**
- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- 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 sixty (60) days written notice before the



effective termination date. The Contractor shall be entitled to 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, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). 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.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- 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 handicap or 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. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, 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 C, 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 *Tennessee Code Annotated, Section 12-4-124, et seq.* 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 (1) 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.
- D.9. Records. The Contractor shall maintain documentation for all charges 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.10. 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.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. 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.13. 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.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. 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, natural disasters, riots, wars, epidemics, or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. 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.18. 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.19. 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.20. 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 certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Yvonna Brown, Assistant Commissioner
 Department of Human Services
 15th Floor; Citizens Plaza Building
 400 Deaderick Street
 Nashville, TN 37243-1403
[Yvonna Brown@tn.gov](mailto:Yvonna.Brown@tn.gov)
 Telephone # 615-313-4715
 FAX # 615-313-4982

The Contractor:

Kevin D. Gailfoil, Esq., Contracts Manager
 Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.
 9901 Linn Station Rd
 Louisville, KY 40223
Kevin.gailfoil@rescare.com
 Telephone # 502-420-2527
 FAX # 502-394-2353

Steve Reed, Chief Legal Officer
 Arbor E&T LLC d/b/a ResCare Workforce Services, Inc.
 9901 Linn Station Road
 Louisville, KY 40223
steve.reed@rescare.com
 Telephone # 502-394-2399
 FAX # 502-394-2353

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- 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 immediately 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. 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, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

E.5. **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 B, and agrees 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 State shall be entitled to receive within five (5) days any requested information or material from Contractor. The State shall make the final and binding determination of said amount.

- (4) Opportunity to Cure—
- (a) At the State's option, the Contractor shall have the opportunity to cure a breach of contract resulting in failure to perform where opportunity to cure a breach of performance requirements is not otherwise specifically addressed by the submittal of corrective action plans in Section A of the Contract. The request for a cure period must be submitted in writing within three (3) business days of Contractor being notified of, or becoming aware of, a failure to perform the services as outlined within this Contract.
- (b) The cure period granted under subsection (a) shall not exceed fifteen (15) business days. The Contractor may submit a written request for a cure period longer than fifteen (15) days, setting forth the reasons for such request.
- (c) This opportunity to cure shall not be available in circumstances in which the Contractor intentionally withholds its services or otherwise refuses to perform. The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, if a cure period would unreasonably delay completion of the Contract, or if State operations dependent on the Contract would be adversely impacted.
- (5) 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 thirty (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.6. **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 thirty (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.7. **Printing Authorization.** The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.8. **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.9. **Lobbying.** The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally 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 Federal 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.

- b. If any funds other than federally 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 contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. 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 subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

- E.10. Copyrights and Patents. 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 or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees 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. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.11. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

- E.12. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of



eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

- E.13. Public Exigency Service Provision Extension. At the option of the State, the Contractor agrees to continue services for the Department when the Department determines there is a public exigency that requires the contracted services to continue. Continuation of services pursuant to this subsection shall be effected via a non-competitive contract amendment, and shall be in increments no greater than six (6) months and the total of all public exigency extensions shall not exceed twelve (12) months. Thirty (30) days notice shall be given by the Department before this option is exercised. The Contractor reimbursement rate during emergency periods shall be the established regular monthly rate in effect during the last year of this Contract.
- E.14. Contract Services Transition. Upon termination of this Contract, for whatever reason (expiration or termination), the Contractor shall assist the State to ensure an orderly transfer of responsibility and/or continuity of those services required under the terms of the Contract to an organization designated by the State, or to the State.
- a. The Contractor shall deliver, FOB (free on board) destination, all records, documentation, reports, data, hard copy and electronic files, recommendations, etc., which were required to be produced under the terms of the Contract to the State and/or the State's designee promptly and with due diligence after receipt of the written request.
 - b. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this Contract, on the date specified by the State, in order to ensure the completion of such service prior to the termination of the Contract.
- E.15. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their 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 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.



The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.16. 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.17. 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. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

- E.18. 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.19. 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.
- E.20. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. Said services shall begin no later than six (6) weeks after any instance of unauthorized disclosure and shall remain in effect for a duration of one (1) year. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.
- E.21. Notice of Organizational Change/Financial Status Information.
- a. The Contractor shall immediately notify the State in writing of a proposed merger, acquisition or sale of its business operation, or the part of its business operation that provides services under this Contract, or that this Contract will be sold to or assumed by another entity.
 - b. The notification shall provide to the State information regarding the date and terms of the merger, acquisition or sale, including specifically, but not limited to, adequate documentation of the financial solvency and adequate capitalization of the proposed new entity, or the entity which proposes to acquire the Contractor's business operation, or the part of any business operations of the Contractor that provides services to fulfill any obligations arising under this Contract or the entity to which the Contract itself will be sold or which will otherwise assume the obligations of the Contract.
 - c. Evidence of financial solvency and adequate capitalization of the proposed new entity by merger or with which Contractor has merged or the entity that will acquire or has acquired the original Contractor or the Contract itself shall consist of, at a minimum, but is not limited to:
 - (i) Debt;



- (ii) Assets;
 - (iii) Liabilities;
 - (iv) Cash flow;
 - (v) Percentage of the total revenues of the company that are represented by this Contract;
 - (vi) The most recent annual financial reports; and
 - (vii) The most recent annual financial reports filed with government agencies, if applicable.
- d. The new entity or the entity that has acquired the original Contractor or the part of the original Contractor that provided services under this Contract or has assumed the Contract itself shall provide to the State within ten (10) business days of the State's request, a notarized statement signed by an individual authorized to bind the new or acquiring entity certifying that all liabilities and obligations incurred by the former entity are assumed by the new entity or the entity that has acquired the original Contractor or that part of the original Contractor's business that provided services under this Contract or that has assumed the contract itself.
- e. (i) Within ten (10) business days of the State's request, the new or acquiring entity shall provide to the State a complete narrative description of the relationship of any new entity to any parent company or subsidiary or division resulting from the merger, acquisition or sale of the original Contractor's business or the part of the original Contractor's business that provides services under this Contract or from assumption by, or sale to, another entity of the contract itself, and,
- (ii) Shall provide a statement on company letterhead regarding the names and positions of corporate or company officers, project managers, other Contractor management staff with responsibilities under the Contract, and numbers and the type of technical or other personnel who will be responsible for fulfilling the obligations of the Contract, and any subcontracts that will be used to provide any personal or other services under the Contract by the new entity or acquiring company; and,
 - (iii) Shall provide an organizational chart clearly describing the organizational structure of the new or acquired or acquiring entity and its status as a new entity, parent company, subsidiary, division or other unit of the entity or parent company with which it has merged or by which it, or the Contract, has been acquired.
- f. The Contractor shall provide to the State, within ten (10) business days of the request by the State, such additional evidence of financial solvency, adequate capitalization and information regarding corporate organizational and personnel assigned to the Contract as it determines is necessary to evaluate the status of the proposed or consummated merger, acquisition or sale.
- g. If the merger or acquisition or sale has occurred without prior notice to the State, the entity that results from the merger, or that has acquired the Contractor's business operations, or the part of the business operations that provide services under this Contract, shall provide the information required by subparagraphs a.-f.



- h. The financial information referenced in subparagraph c. shall be provided to the State upon request of the State within ten (10) business days of said request.
- i. The original Contractor shall immediately notify the State in writing in the event of a change in its legal name and/or Federal Employer Identification Number (FEIN), shall provide to the State certified copies of any documents that have been filed with state corporate records officials or other officials in the state of its incorporation that verify the name change and the Contractor shall provide a narrative description on company letterhead of the reasons for the name change.
- j. Notwithstanding any other provisions of this Contract to the contrary, the State may immediately terminate this Contract in whole or in stages in the event that it determines that the original Contractor or the new entity resulting from the merger, acquisition, sale of all or part of the original Contractor's business providing services under this Contract, or that the entity that purchases the Contract and that will be providing the services required by this Contract, is, in the State's sole discretion, unacceptable for any reason, or the State determines, in its sole discretion, that it has failed to provide the information required by this paragraph E.21. The Contractor or the new entity or the entity that acquires all or part of the original Contractor's business or that assumes the Contract shall be entitled to 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.
- E.22. Disaster Recovery / Business Continuity Plan. Upon request by the State, the Contractor shall furnish to the State, within ten (10) days following such request, the Contractor's documented and tested Disaster Recovery/Business Continuity Plan. Said plan shall be subject to written approval by the State.
- E.23. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
- (i) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (ii) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate. Contractor shall certify in writing to the State that all subcontractors providing services pursuant to this Contract carry comprehensive commercial general liability insurance with the coverages and in the amounts stated above.
 - (iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.



(iv) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.

b. At any time State may require the Contractor to provide a valid Certificate of Insurance, or to provide the insurance policy, detailing Coverage Description; Insurance Company & Policy Number; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.24. The Contractor will notify the State within three (3) business days of changes in key personnel as designated by State. The State reserves the right to review and approve any change in key personnel by the Contractor.

E.25. In the event a dispute regarding a client arises between the parties to this contract, the State shall have the final decision making authority.

IN WITNESS WHEREOF,

ARBOR E & T, LLC. D/B/A RESCARE WORKFORCE SERVICES, INC.:

Michael B. Hough

7/5/13

MICHAEL B. HOUGH, OPERATIONS OFFICER

DATE

DEPARTMENT OF HUMAN SERVICES:

Raquel Hatter

7/8/13

RAQUEL HATTER, COMMISSIONER

DATE



CONTRACTOR ZONES



ZONE A- Seedco	ZONE B - WFE	ZONE C- MAX	ZONE D- PSI	ZONE E- ETSU	ZONE F- ResCare Same counties as Zone A, B, C & D	
Shelby	Benton	Davidson	Bedford	Anderson	Shelby	Davidson
	Carroll		Bledsoe	Blount	Benton	Bedford
	Cheatham		Cannon	Bradley	Carroll	Bledsoe
	Chester		Clay	Campbell	Cheatham	Cannon
	Crockett		Coffee	Carter	Chester	Clay
	Decatur		Cumberland	Claiborne	Crockett	Coffee
	Dickson		Dekalb	Cocke	Decatur	Cumberland
	Dyer		Franklin	Fentress	Dickson	Dekalb
	Fayette		Giles	Grainger	Dyer	Franklin
	Gibson		Grundy	Greene	Fayette	Giles
	Hardeman		Hamilton	Hamblen	Gibson	Grundy
	Hardin		Jackson	Hancock	Hardeman	Hamilton
	Haywood		Lincoln	Hawkins	Hardin	Jackson
	Henderson		Macon	Jefferson	Haywood	Lincoln
	Henry		Marion	Johnson	Henderson	Macon
	Hickman		Marshall	Knox	Henry	Marion
	Houston		Moore	Loudon	Hickman	Marshall
	Humphreys		Overton	McMinn	Houston	Moore
	Lake		Putnam	Meigs	Humphreys	Overton
	Lauderdale		Rutherford	Monroe	Lake	Putnam
	Lawrence		Sequatchie	Morgan	Lauderdale	Rutherford
	Lewis		Smith	Pickett	Lawrence	Sequatchie
	Madison		Sumner	Polk	Lewis	Smith
	Maury		Trousdale	Rhea	Madison	Sumner
	McNairy		Van Buren	Scott	Maury	Trousdale
	Montgomery		Warren	Sevier	McNairy	Van Buren
	Obion		White	Sullivan	Montgomery	Warren
	Perry		Wilson	Union	Obion	White
	Robertson			Washington	Perry	Wilson
	Stewart				Robertson	
	Tipton				Stewart	
	Wayne				Tipton	
	Weakley				Wayne	
	Williamson				Weakley	
					Williamson	



LIQUIDATED DAMAGES

For failure to maintain a WPR of fifty-five percent (55%) for each month during the period of July 1, 2013 through June 30, 2014, a two and one half percent (2.5%) reduction shall be applied to the total compensation invoiced for that month.

Failure to meet all Performance Measure Outcomes for the period beginning July 1, 2013 and ending December 31, 2013, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.

Failure to meet all Performance Measure Outcomes for the period beginning January 1, 2014 and ending June 30, 2014, a one percent (1%) reduction shall be applied to the total compensation for the six (6) month period.

Liquidated damages, if applicable, will be assessed via reduction of payment from the following month's invoice.



ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	37287
CONTRACTOR LEGAL ENTITY NAME:	Arbor EIT &/or ResCare Workforce Services
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.

Michael Hough Operations Officer

PRINTED NAME AND TITLE OF SIGNATORY

7/5/13

DATE OF ATTESTATION