# CONTRACT #1
# RFS # 344.02-740
# FA # Pending

# Finance & Administration
# Division of Mental
# Retardation Services

# VENDOR:
# Public Partnerships, LLC.

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

August 27, 2008

RECEIVED
AUG 28 2008
FISCAL REVIEW

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

Attention: Leni Chick

Re: Public Partnerships, LLC
Contract Number FA-07-17115-00
Request Non-Competitive Amendment

Dear Mr. White:

Pursuant to Tennessee Code Annotated 12-4-109, a request for a non-competitive contract amendment between the Department of Finance and Administration, Division of Mental Retardation Services (DMRS) and Public Partnerships, LLC for Financial Administration and Supports Brokerage services is submitted for review by the Fiscal Review Committee.

DMRS entered into a contract with Public Partnership, LLC, effective November 1, 2006 to provide Financial Administration and Supports Brokerage to participants of the Tennessee Self-Determination Waiver Program (SDWP).

The reason for the proposed amendment is that the Department of Finance and Administration, Bureau of Tenncare included an analysis of contract language that is required for this contract in their response to a letter from the Centers for Medicare and Medicaid services regarding the renewal of Tennessee's Self Determination Waiver Program for Individuals with Mental Retardation and found that additional language needed to be added to the contract for the State's compliance with The Code of Federal Regulations (CFR) Title 42.

The contract, awarded through the State's RFP process, began on November 1, 2006 and is due to expire on October 31, 2008. Although the base contract contains a provision in Section B.2. to extend the contract term, it does not provide for any change in the scope of services.

In addition to extending the contract term and increasing funding for the additional term, the proposed contract amendment adds the required language per CFR 42 in the new Section A.10. of the contract.

A copy of the proposed amendment along with a copy of the base contract and the request to use the non-competitive amendment procurement process are enclosed. Please let me know if any additional information is required.

Your assistance for review of this proposed amendment for approval is appreciated.

Sincerely,

Stephen H. Norris
Deputy Commissioner

SHN:DD
Enclosures

RECEIVED
SEP 23 2008
FISCAL REVIEW

**AMENDMENT ONE**
**TO FA-07-17115-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, hereinafter referred to as the "State" and Public Partnerships, LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The following provision is added as Contract Section A.10.:

   A.10. PROCEDURES UPON TERMINATION:

   a. The contractor shall promptly supply all material necessary for continued operation of payment and related systems. This material includes but may not be limited to:

      (1) Computer Programs;
      (2) Data files;
      (3) User and operation manuals, and other documentation;
      (4) System and program documentation; and
      (5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system.

   b. The contractor shall offer to the State one or both of the following options if the Contractor or the Contractor's subcontractor has a proprietary right to material specified in Section A.10.a. of this Contract:

      (1) Purchasing the material; or
      (2) Purchasing the use of the material through leasing or other means.

   c. Payment to providers will be made in accordance with The Code of Federal Regulations (CFR) Title 42, Part 447.

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

   B.1. CONTRACT TERM: This Contract shall be effective for the period commencing on November 1, 2006 and ending on October 31, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

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

   C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed two million, four hundred twenty eight thousand dollars ($2,428,118.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

amounts or to request any work at all from the Contractor during any period of this Contract.

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

**IN WITNESS WHEREOF:**

**PUBLIC PARTNERSHIPS, LLC.:**

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**CONTRACTOR SIGNATURE** **DATE**

**MARC FENTON, PRESIDENT**

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**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

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

---

**M. D. GOETZ, JR., COMMISSIONER** **DATE**

**DEPARTMENT OF FINANCE AND ADMINISTRATION,**
**BUREAU OF TENNCARE:**

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**M. D. GOETZ, JR., COMMISSIONER** **DATE**

**APPROVED:**

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

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**JOHN G. MORGAN, COMPTROLLER OF THE TREASURY** **DATE**

# REQUEST: NON-COMPETITIVE AMENDMENT

| APPROVED |
|---|
| Commissioner of Finance & Administration<br>Date: |

| EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED: | |
|---|---|
| 1) RFS # | 344.02-740 |
| 2) State Agency Name : | Department of Finance and Administration, Division of Mental Retardation Services |
| EXISTING CONTRACT INFORMATON | |
| 3) Service Caption : | Financial Administration Services and Supports Brokerage Services |
| 4) Contractor : | Public Partnerships, LLC |
| 5) Contract # | FA-07-17115-00 |
| 6) Contract Start Date : | 11/1/2006 |
| 7) Current Contract End Date IF all Options to Extend the Contract are Exercised : | 10/31/2008 |
| 8) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised : | $1,884,595.00 |
| PROPOSED AMENDMENT INFORMATON | |
| 9) Proposed Amendment # | 1 |
| 10) Proposed Amendment Effective Date :<br>(attached explanation required if date is < 60 days after F&A receipt) | 11/1/2008 |
| 11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised : | 10/31/2009 |
| 12) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised : | $2,428,118.00 |
| 13) Approval Criteria :<br>(select one) | ☒ use of Non-Competitive Negotiation is in the best interest of the state |
| | ☐ only one uniquely qualified service provider able to provide the service |

**14) Description of the Proposed Amendment Effects & Any Additional Service :**

The purpose of this amendment is to define procedures to be followed upon contract termination per direction from the Department of Finance and Administration Bureau of Tenncare in addition to the extension of the contract term and funding increase for Amendment 1.

A.10. PROCEDURES UPON TERMINATION:

a. The contractor shall promptly supply all material necessary for continued operation of payment and related systems. This material includes but may not be limited to:

(1) Computer Programs;
(2) Data files;
(3) User and operation manuals, and other documentation;
(4) System and program documentation; and
(5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system.

b. The contractor shall offer to the State one or both of the following options if the Contractor or the Contractor's subcontractor has a proprietary right to material specified in Section A.10.a. of this Contract:

(1) Purchasing the material: or
(2) Purchasing the use of the material through leasing or other means.

c. Payment to providers will be made in accordance with The Code of Federal Regulations (CFR) Title 42, Part 447.

**15) Explanation of Need for the Proposed Amendment :**

The additional language is for compliance with the Code of Federal Regulations (CFR) Title 42.

**16) Name & Address of Contractor's Current Principal Owner(s) :**
(not required if proposed contractor is a state education institution)

Marc Fenton, President
Public Partnerships, LLC
148 State Street, 10th floor
Boston, Massachusetts 02109

**17) Documentation of Office for Information Resources Endorsement :**
(required only if the subject service involves information technology; N/A to THDA requests)

| | | |
|---|---|---|
| **select one:** | ☒ Documentation Not Applicable to this Request | ☐ Documentation Attached to this Request |

**18) Documentation of Department of Personnel Endorsement :**
(required only if the subject service involves training for state employees)

| | | |
|---|---|---|
| **select one:** | ☒ Documentation Not Applicable to this Request | ☐ Documentation Attached to this Request |

**19) Documentation of State Architect Endorsement :**
(required only if the subject service involves construction or real property related services)

| | | |
|---|---|---|
| **select one:** | ☒ Documentation Not Applicable to this Request | ☐ Documentation Attached to this Request |

**20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :**

None, this contract was awarded through the State's RFP process.

**21) Justification for the Proposed Non-Competitive Amendment :**

The F&A Bureau of Tenncare included an analysis of contract language that is required for this contract in response to a letter from the Centers for Medicare and Medicaid Services regarding the renewal of Tennessee's Self Determination Waiver Program for Individuals with Mental Retardation and found that these clauses needed to be added for compliance with CFR Title 42. The existing contract provides the authority to extend the contract and add funding, however, is does not provide any authority to add additional scope of services.

**REQUESTING AGENCY HEAD SIGNATURE & DATE :**
(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

| | |
|---|---|
| **Agency Head Signature** | **Date** |

Proposed Amendment

# CONTRACT SUMMARY SHEET

021908

| RFS # | Contract # |
|---|---|
| 344. 02 — 740 — 07 | FA-07-17115-01 |
| **State Agency** | **State Agency Division** |
| Department of Finance and Administration | Division of Mental Retardation Services |
| **Contractor Name** | **Contractor ID # (FEIN or SSN)** |
| Public Partnerships, LLC | ☐ C- or ☒ V- 04-3468852 |

**Service Description**

Financial Administration services and supports Brokerage Services

| Contract Begin Date | Contract End Date | SUBRECIPIENT or VENDOR? | CFDA # |
|---|---|---|---|
| 11/1/2006 | 10/31/2009 | Vendor | |

**Mark Each TRUE Statement**

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

| Allotment Code | Cost Center | Object Code | Fund | Funding Grant Code | Funding Subgrant Code |
|---|---|---|---|---|---|
| 344.02 | 40210 | 089 | 11 | | |

| FY | State | Federal | Interdepartmental | Other | TOTAL Contract Amount |
|---|---|---|---|---|---|
| 2007 | | | $292,353.00 | | $292,353.00 |
| 2008 | | | $910,765.00 | | $910,765.00 |
| 2009 | | | $900,000.00 | | $900,000.00 |
| 2010 | | | $325,000.00 | | $325,000.00 |
| | | | | | |
| | | | | | |
| TOTAL: | | | $2,428,118.00 | | **$2,428,118.00** |

**— COMPLETE FOR AMENDMENTS ONLY —**

| FY | Base Contract & Prior Amendments | THIS Amendment ONLY |
|---|---|---|
| 2007 | $292,353.00 | |
| 2008 | $910,765.00 | |
| 2009 | 681,477.00 | $218,523.00 |
| 2010 | | $325,000.00 |
| | | |
| | | |
| TOTAL: | | |
| End Date: | **$1,884,595.00** | **$543,523.00** |

**State Agency Fiscal Contact & Telephone #**

Melinda Lanza 615-253-3166

**State Agency Budget Officer Approval**

**Funding Certification** (certification, required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

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

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

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

☐ RFP ☐ Competitive Negotiation * ☐ Alternative Competitive Method *
☐ Non-Competitive Negotiation * ☐ Negotiation w/ Government (ID, GG, GU) ☐ Other *

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

Summary Sheet Change 5-18-07

# CONTRACT SUMMARY SHEET

021406

| RFS # | Contract # |
|---|---|
| 344.02-740 | FA-07-17115-00 |
| State Agency | State Agency Division |
| Department of Finance and Administration | Division of Mental Retardation Services |
| Contractor Name | Contractor ID # (FEIN or SSN) |
| Public Partnerships, LLC | [ ] C- or [ ] V- 04-3468852 |
| Service Description | |
| Financial Administration Services and Supports Brokerage Services | |

| Contract BEGIN Date | Contract END Date | Subrecipient or Vendor? | CFDA # |
|---|---|---|---|
| 11/1/2006 | 10/31/2008 | Vendor | |

Mark Each TRUE Statement

[ ] Contractor is on STARS

[X] Contractor's Form W-9 is on file in Accounts

| Allotment Code | Cost Center | Object Code | Fund | Funding Grant Code | Funding Subgrant Code |
|---|---|---|---|---|---|
| 344.02 | 40210 | 089 | 11 | | |

| FY | State | Federal | Interdepartmental | Other | TOTAL Contract Amount |
|---|---|---|---|---|---|
| 2007 | | | $ 292,353.00 | | $ 292,353.00 |
| 2008 | | | $ 910,765.00 | | $ 910,765.00 |
| 2009 | | | $ 681,477.00 | | $ 681,477.00 |
| | | | | | $ - |
| | | | | | $ - |
| | | | | | $ - |
| TOTAL | $ - | $ - | $ 1,884,595.00 | $ - | $ 1,884,595.00 |

— COMPLETE FOR AMENDMENTS ONLY —

| FY | Base Contract & Prior Amendments | THIS Amendment ONLY |
|---|---|---|
| 2007 | $ 262,353.00 | $ 30,000.00 |
| 2008 | $ 940,765.00 | $ (30,000.00) |
| 2009 | $ 681,477.00 | |
| | | |
| | | |
| | | |
| TOTAL | $ 1,884,595.00 | $ - |
| End Date | 10/31/2008 | 10/31/2008 |

State Agency Fiscal Contact & Telephone #

Melinda Lanza 253-3166

State Agency Budget Officer Approval

Melinda Lanza 5/21/07

Funding Certification (certification, required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

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

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| [ ] | African American | [ ] | Person w/ Disability | [ ] | Hispanic | [ ] | Small Business | [X] | NOT disadvantaged |
| [ ] | Asian | [ ] | Female | [ ] | Native American | [ ] | OTHER minority/disadvantaged— | | |

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

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| [ ] | [X] | RFP | [ ] | Competitive Negotiation | [ ] | Alternative Competitive Method |
| [ ] | [ ] | Non-Competitive Negotiation | [ ] | Negotiation w/ Government(eg.ID,GG,GU) | [ ] | Other |

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

JUN - 5

# CONTRACT SUMMARY SHEET

021406

| RFS # | Contract # |
|---|---|
| 344.02-740 | FA-07-17115-00 |
| **State Agency** | **State Agency Division** |
| Department of Finance and Administration | Division of Mental Retardation Services |
| **Contractor Name** | **Contractor ID # (FEIN or SSN)** |
| Public Partnerships, LLC | [ ] C- or [ ] V- 04-3468852 |
| **Service Description** | |
| Financial Administration Services and Supports Brokerage Services | |

| Contract BEGIN Date | Contract END Date | Subrecipient or Vendor? | CFDA # |
|---|---|---|---|
| 11/1/2006 | 10/31/2008 | Vendor | |

**Mark Each TRUE Statement**

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

| Allotment Code | Cost Center | Object Code | Fund | Funding Grant Code | Funding Subgrant Code |
|---|---|---|---|---|---|
| 344.02 | 40210 | 089 | 11 | | |

| FY | State | Federal | Interdepartmental | Other | TOTAL Contract Amount |
|---|---|---|---|---|---|
| 2007 | | | $ 262,353.00 | | $ 262,353.00 |
| 2008 | | | $ 940,765.00 | | $ 940,765.00 |
| 2009 | | | $ 681,477.00 | | $ 681,477.00 |
| | | | | | $ - |
| | | | | | $ - |
| | | | | | $ - |
| TOTAL | $ - | $ - | $ 1,884,595.00 | $ - | **$ 1,884,595.00** |

**—COMPLETE FOR AMENDMENTS ONLY—**

| FY | Base Contract & Prior Amendments | THIS Amendment ONLY |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| TOTAL | $ - | $ - |
| End Date | | |

RECEIVED 2007 JAN 17 PM 2:30 CONTROLLER'S OFFICE MANAGEMENT SERVICES

**State Agency Fiscal Contact & Telephone #**

Melinda Lanza 253-3166

**State Agency Budget Officer Approval**

Melinda Lanza 1/12/07

**Funding Certification** (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

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

| | | | | |
|---|---|---|---|---|
| [ ] African American | [ ] Person w/ Disability | [ ] Hispanic | [ ] Small Business | [X] NOT disadvantaged |
| [ ] Asian | [ ] Female | [ ] Native American | [ ] OTHER minority/disadvantaged— | |

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

| | | |
|---|---|---|
| [X] RFP | [ ] Competitive Negotiation | [ ] Alternative Competitive Method |
| [ ] Non-Competitive Negotiation | [ ] Negotiation w/ Government(eg,ID,GG,GU) | [ ] Other |

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

SCAN 1/25/07

**CONTRACT**
**BETWEEN THE STATE OF TENNESSEE,**
**DEPARTMENT OF FINANCE AND ADMINISTRATION,**
**DIVISION OF MENTAL RETARDATION SERVICES**
**AND**
**PUBLIC PARTNERSHIPS, LLC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Mental Retardation Services, hereinafter referred to as the "State" or "DMRS" and Public Partnerships, LLC., hereinafter referred to as the "Contractor", is for the provision of Financial Administration and Supports Brokerage, as further defined in the "SCOPE OF SERVICES".

The Contractor is a limited liability company. The Contractor's address is:

148 State Street, 10th Floor
Boston, Massachusetts 02109

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

A. SCOPE OF SERVICES:

A.1. Description. The Contractor shall provide Supports Brokerage and Financial Administration Services to participants of the Tennessee Self-Determination Waiver Program (SDWP).

a. Supports Brokerage is an activity designed to enable a Self-Determination Waiver Program (SDWP) participant, referred to as the "waiver participant", to manage participant-managed services and assist the waiver participant to locate, access, and coordinate needed services. A Supports Broker (SB) serves as a link between the waiver participant or the waiver participant's guardian/conservator, providers and Financial Administration entity. The waiver participant or the waiver participant's guardian/conservator must retain authority and responsibility for self-direction. A waiver participant or the waiver participant's guardian or conservator who elects self-determination may select a SB to provide the following assistance in managing participant-managed services:

1. Provide training to the waiver participant concerning self-determination.

2. Assist the waiver participant or the waiver participant's guardian or conservator in the recruitment of providers of participant-managed services.

3. Assist the waiver participant or the waiver participant's guardian or conservator in the scheduling, training and supervision of providers of participant-managed services.

4. Assist the waiver participant or the waiver participant's guardian or conservator in managing and monitoring the self-determination budget.

5. Assist the waiver participant or the waiver participant's guardian or conservator in monitoring and evaluating the performance of providers of participant-managed services.

6. Maintain contact with the waiver participant or the waiver participant's guardian or conservator to ensure that needed services are being provided.

7. Participate in the development of the Individual Support Plan (ISP)/plan of care (if requested by the waiver participant or the waiver participant's guardian or conservator).

8. The SB must notify the waiver participant's DMRS Case Manager in the event of concerns about service delivery problems or issues that affect health and welfare.

9. A SB also may be engaged to assist in locating and securing services, supports (including informal, unpaid supports) and other community resources that promote community integration, community membership and independence, as provided in the ISP/plan of care. A SB shall collaborate with but not duplicate the functions of the waiver participant's DMRS case manager.

b. Financial Administration (FA) facilitates the employment of service providers by the waiver participant and the management of the self-determination budget. FA is available only to waiver participants who self-direct services. The use of FA is mandatory whenever the waiver participant is the employer of record of one or more service workers. FA is necessary to assure that participant-managed funds specified in the ISP/plan of care are managed and distributed as intended. Financial Administration consists of the following responsibilities:

1. Develop a method for the review and payment of invoices and monitoring expenditures against the individual budget for each waiver participant that meets all Internal Revenue Service and Department of Labor (IRS-DOL), Medicaid, State, and DMRS requirements and is consistent with generally accepted accounting principles. The FA will ensure these methods and activities are consistent with DMRS' Prior Authorization System.

2. Receive, review, and process all invoices from both individual/self employed service providers and service provider agencies providing a wide range of services to the waiver participant. The FA will handle on-going staffing costs, individually approved, and reimbursed expenses. DMRS will have input and approve the design of the invoice used to capture data from service providers. The FA will only pay for services authorized in the approved ISP as outlined in DMRS policies and procedures.

3. Establish the accounting and information systems necessary for processing and paying providers as specified in the waiver participant's ISP and service authorizations and establish the reporting functions and the internal controls necessary to track and manage these functions in an effective and timely manner.

4. Obtain documentation from the waiver participant or the waiver participant's guardian/conservator to ensure that services were provided prior to payment of invoices. Documentation requirements should be in the least cumbersome format possible with reasonable accommodations made for individuals with special needs.

5. Review/resolve invoice discrepancies; when an invoice from a waiver participant who is self-directing, or the waiver participant's guardian/conservator is in excess of the waiver participant's authorized individual budget and/or amount of services contained in the approved ISP. The FA will not pay the "Authorized Amount of

Payment" on that invoice and shall notify DMRS, the waiver participant or the guardian/conservator, and the DMRS case manager.

6. Prepare proper tax documents for individual service providers. If the direct service provider is an individual, not affiliated or employed by another agency, the waiver participant may be interested in entering into an employment relationship with the provider. In addition, if not affiliated, criminal background checks and abuse, neglect, and exploitation registers no more that 365 days old on individuals must be obtainable and available. In that case, the FA would assure the proper withholdings and prepare appropriate tax documents for the provider.

7. Maintain a resource manual of available competency-based training that the individual direct service provider will use to meet DMRS training requirements.

8. Payment of invoices from waiver recipients when appropriate. If a service provider is a licensed agency and chosen by the waiver participant to provide services, then that agency is required to provide all the necessary training, and invoice the waiver participant. In turn, the waiver participant or their guardian/conservator will invoice the FA for payment.

9. Invoices for payment to service providers. Each waiver participant may have several providers to pay for services rendered. Invoices will be submitted monthly in accordance with the waiver participant's ISP.

10. Guarantee a seven (7) day turn around time for processing of invoices and payment to service providers on behalf of waiver participants, consistent with DMRS's reimbursement schedule.

11. Meet applicable insurance requirements.

12. Develop and implement the internal controls necessary to track and manage the record keeping, payroll, and bill paying functions to maintain efficiency, accuracy and timely compliance and to identify independent provider, agency provider, and other provider fraud and abuse activities.

13. Provide the waiver participant or the waiver participant's guardian/conservator with the information and materials required for them to carry out self-determination and waiver participant service management, including procedures for approving payment for services and obtaining necessary payroll and employment information.

A.2. Communication with Waiver Participants. The Contractor shall communicate effectively with waiver participants who are culturally diverse and may have a variety of disabilities and with the waiver participant's guardian/conservator that may also be culturally diverse. The Contractor shall use telecommunication devices for the hearing and speech impaired and shall hire bilingual (English/Spanish) customer service representatives and shall have the capacity to access interpreter services when needed. Any written information prepared by the Contractor for waiver participants or their guardian/conservator shall be approved by the DMRS, be provided in English and Spanish and any other language when 200 or 5% of participating waiver participants, whichever is greater, speak the same non-English language, written at the fourth grade level, and available in alternative formats (e.g., large print). The FA shall also have the capacity to access translation services when needed.

A.3. Training. The Contractor shall develop and provide training regarding individual rights and responsibilities of waiver participant managed services for waiver participants, guardians/conservators, and families.

A.4. Transition/Closure. Waiver participants may request to be removed from receiving services through the FA and return to receiving services through the traditional provider system. Involuntary transfer from receiving services through the FA may occur under other circumstances as indicated in DMRS policy.

A.5. Non Billable Activities. Federal regulations require that the Medicaid program ensure that payments made to providers do not duplicate payments for the same or similar services furnished by other providers or under other authority as an administrative function or as an integral part of a covered service. Payments made to providers cannot begin prior to approval of the ISP and Prior Authorization of these services.

A.6. Records and Documentation. The Contractor shall:

a. As applicable, prepare and maintain original and file copies of all forms and documents needed to comply with Federal, State and local (if applicable) payments of income, FICA and unemployment tax, workers' compensation insurance payments, and all other reporting requirements of employers for the required period of time.

b. Establish and manage a record keeping system for managing programs, waiver participant and independent service providers' files, and all required documentation. Establish and maintain the internal controls necessary to manage and maintain the record keeping system in an effective and timely manner.

c. Maintain sufficient records to document compliance with licensing, DMRS and Medicaid requirements. Each waiver participant must have a separate case record, which fully documents services for which Medicaid payments were processed.

d. Maintain and make available all projects, service recipient waiver participant, and independent provider documents, files and records for inspection and review by the DMRS at any time in a form and manner prescribed by the DMRS.

e. Provide waiver participant, independent provider, or Contractor related information, records and statistics to the DMRS when requested.

A.7. Reports. The Contractor shall:

a. Manage, track, and provide reports on the receipt and disbursement of funds on behalf of the waiver participants.

b. Provide the DMRS case manager and the waiver participant and/or their guardian/conservator with a monthly utilization report. The reports shall include the self-determination budget status, summary of the invoices that were processed for the waiver recipient during the past month, and shall include a list of any invoices that were received and are held/unpaid because they do not meet the allowable amount indicated in the individual budget.

i. The report shall be available in a hard copy format and electronically.

ii. DMRS will have input and approval into the design of the monthly report.

iii. Reports shall either be prepared using Excel software or prepared using data that can be exported to Excel. The Contractor may be asked to use State developed web-based systems in the future.

c. Provide DMRS with service recipient, case manager, and provider audit data on a quarterly basis in a format that meets specified requirements.

A.8. Staffing Requirements. The Contractor shall ensure the following:

a. Maintain adequate staff coverage to meet the obligations of this contract and shall implement a policy to ensure service coverage for all waiver participants linked to this contract during the absence of staff and vacated positions.

b. Must possess and maintain applicable State of Tennessee business license.

c. Carry out Financial Administration activities under the supervision of a certified public accountant licensed by the State of Tennessee.

d. Be approved by the Internal Revenue Service to be an employer agent.

e. Pass a criminal background check performed in accordance with all requirements of *Tennessee Code Annotated*, Section 33-2-1202 for obtaining a criminal background check and/or fingerprint check from the Tennessee Bureau of Investigation or, as an alternative, a background check from a licensed private investigation company. Said background/fingerprint checks will be made on all employees, contractors, and volunteers whose job functions include direct contact with or responsibility for service recipients.

f. Meet the general requirements for all waiver service providers (Chapter 6 of the DMRS Provider Manual, available via the internet at: http://www.state.tn.us/dmrs).

g. Contractor/contractor's staff providing Support Brokerage meets the following minimum qualifications:

   i. Four year degree in Human Services (psychology, sociology, social work, recreational therapy, education, nursing, PT, OT, Speech, etc.) and at least one year professional experience working with individuals with mental retardation and/or developmental disabilities, or

   ii. Four year degree in any other subject and two years experience working with individuals with mental retardation and/or developmental disabilities; and

   iii. must satisfactorily complete DMRS orientation and training in participant-managed services and the role of the Support Broker

h. The Contractor is not a provider of any other waiver service to the SDWP participants.

A.9. State Obligations to the Contractor.

a. DMRS will provide the FA with an approved ISP including a prior authorized individual budget for each waiver participant that shall receive services under this contract. This budget will list the approved vendors to be utilized, the authorized monthly utilization, and the authorized rate of payment.

b. DMRS will provide the contractor with an updated individual budget for waiver participants as needed.

c. DMRS will approve requests and assist the Contractor in determining whether to pay any invoices that exceed the approved monthly amounts as indicated in the approved individual budget.

d. DMRS will provide the contractor with a monthly payment, which will be used to pay all invoices and cover the providers' administrative costs for the month as indicated in the contract.

B. CONTRACT TERM:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 1, 2006 and ending on October 31, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least sixty (60) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million, eight hundred eighty four thousand, five hundred ninety five dollars ($1,884,595.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with 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 in Section C.3 and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to increase 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. The Contractor shall be compensated based upon the following Payment Rates:

| SERVICE | MONTHLY PAYMENT RATE PER INDIVIDUAL SERVED | | | | |
|---|---|---|---|---|---|
| | Year 1<br>11/1/06-10/31/07 | Year 2<br>11/1/07-10/31/08 | * Year 3<br>11/1/08-10/31/09 | * Year 4<br>11/1/09-10/31/10 | * Year 5<br>11/1/10-10/31/11 |
| **Financial Administration** | $200.00 | $190.00 | $95.00 | $100.00 | $105.00 |
| **Supports Brokerage** | $148.00 | $146.00 | $150.00 | $156.00 | $151.00 |

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

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

The Contractor shall submit monthly-itemized invoices per client, per day; per service for waiver billing using the DMRS automated billing system. Administrative fees shall be billed monthly on Contractor letterhead invoice.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.

C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.

C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

D.9. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.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, acts of God, riots, wars, strikes, 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 facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:
Stephen H. Norris, Deputy Commissioner
Department of Finance and Administration
Division of Mental Retardation Services
500 Deaderick Street, Suite 1500
Nashville, Tennessee 37243
Telephone Number: (615) 532-6538
Facsimile Number: (615) 532-9940

Program Contact:
Paula McHenry
Department of Finance and Administration
Division of Mental Retardation Services
500 Deaderick Street, Suite 1500
Nashville, Tennessee 37243
Telephone Number: (615) 532-6545
Facsimile Number: (615) 532-9940

Fiscal Contact:
Stephen Beaty
Department of Finance and Administration
Division of Mental Retardation Services
500 Deaderick Street, Suite 1330
Nashville, Tennessee 37243
Telephone Number: (615) 253-2378
Facsimile Number: (615) 253-2391

The Contractor:
Marc Fenton, President
Public Partnerships, LLC
148 State Street, 10th Floor
Boston, Massachusetts 02109
Telephone Number: (617) 426-2026 ext. 1244
Facsimile Number: (617) 426-4069

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

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

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

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

a. The State shall notify the 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.

E.5. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives five hundred thousand dollars ($500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions

relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

E.6. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

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

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

E.7. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

E.8. Books, Documents, Papers, and Records Subject to review by State and Federal Government. The State of Tennessee Department of Finance and Administration Bureau of Tenncare, the State of Tennessee Department of Finance and Administration Division of Mental Retardation Services, the United States Comptroller General, or any of their duly authorized representative, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to a specific program for the purpose of making audits, examination, excerpts and transcriptions.

E.9. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, 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, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.10. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.12. 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.13. 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.14. Public Accountability. 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 agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. if you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

E.15. 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.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. 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, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

E.18. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

E.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.

IN WITNESS WHEREOF:

PUBLIC PARTNERSHIPS, LLC.:

12/14/06

NAME AND TITLE DATE

MARC FENTON, PRESIDENT

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

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

12-14-06

M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF FINANCE AND ADMINISTRATION,
BUREAU OF TENNCARE:

N/A

M. D. GOETZ, JR., COMMISSIONER DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

JAN 17 2007

M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

DEBORAH E. STORY, COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

John G. Morgan 1/19/07

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTACHMENT 1

## ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

| | |
|---|---|
| **SUBJECT CONTRACT NUMBER:** | |
| **CONTRACTOR LEGAL ENTITY NAME:** | Public Partnerships, LLC |
| **FEDERAL EMPLOYER IDENTIFICATION NUMBER:** (or Social Security Number) | 04-3468852 |

**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.**

**SIGNATURE & DATE:** 12/14/06

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.