



TEXAS

Department of Family  
and Protective Services

NEGOTIATED CONTRACT  
BETWEEN  
TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES  
AND  
ACH CHILD AND FAMILY SERVICES

This agreement ("Contract" or "Agreement") is entered into by the Texas Department of Family and Protective Services ("DFPS" or "the Department"), an agency of the State of Texas, and ACH Child and Family Services ("Contractor" or "SSCC"), located at 3712 Wichita Street, Fort Worth, TX 76119.

**Article I. Recitals.**

**Section 1.01** Whereas, on August 1<sup>st</sup>, 2011 DFPS issued Request for Proposals (RFP) #530-12-0003 from qualified, independent firms to provide paid foster care and purchased services that support safety, permanency, and well-being of children in its legal conservatorship who reside in paid foster care;

**Section 1.02** Whereas, DFPS sought a performance-based service delivery model, provided through a Single Source Continuum Contractor ("SSCC"), as the approach that would most effectively meet this need in a manner that achieves better outcomes for children in its conservatorship and in paid foster care;

**Section 1.03** Whereas, on September 9, 2013, Contractor submitted a proposal ("Proposal") in response to the RFP;

**Section 1.04** Whereas, on November 8, 2013, DFPS made an award to Contractor as the SSCC to ensure the full continuum of paid foster care and purchased services for children and youth in DFPS legal conservatorship in the contracted service area and who are referred to the SSCC by DFPS;

**Section 1.05** Whereas, DFPS and Contractor entered into a Negotiated Contract with an effective date from January 1, 2014 to August 31, 2017 ("Original Negotiated Contract");

**Section 1.06** Whereas, the Original Negotiated Contract was amended pursuant to seventeen separate amendments, and Amendment No. 16 extended the term of the Original Negotiated Contract to August 31, 2018;

**Section 1.07** This Contract amends and restates the Original Negotiated Contract, as amended pursuant to the seventeen amendments thereto, and therefore, will supersede the Original Negotiated Contract, as amended;

**Section 1.08** Now therefore, DFPS and Contractor agree as follows:

**Article II. Inducements.**

In making the award of this Agreement, DFPS relies on Contractor's assurances of the following:

**Section 2.01** Contractor and its subcontractors are established providers of the types of services described in the RFP.

**Section 2.02** Contractor and its subcontractors have the skills, qualifications, expertise, financial resources, and experience necessary to perform the services described in the

Contractor's Proposal and this Agreement in an efficient, cost-effective manner, with a high degree of quality and responsiveness, and has performed similar services for other public or private entities.

**Section 2.03** Contractor has thoroughly reviewed, analyzed, and understood the RFP, has timely raised all questions or objections to the RFP, and has had the opportunity to review and fully understand the Department's current program and operating environment for the activities that are the subject of the Agreement and the needs and requirements of the State during the Agreement term.

**Section 2.04** At the time of contract execution, Contractor has had the opportunity to review and understand the State's stated objectives in entering into this Agreement and, based on such review and understanding:

- (A) Contractor currently has the capability to perform in accordance with the terms and conditions of the advertised RFP and this Agreement; and
- (B) Contractor has reviewed and understands the risks associated with DFPS Programs as described in the RFP, including the risk of non-appropriation of funds.

**Section 2.05** Accordingly, on the basis of the terms and conditions of this Agreement, DFPS desires to engage the Contractor to perform the services described in this Agreement under the terms and conditions set forth in this Agreement.

### **Article III. Effective Date of Contract and Renewal.**

The original effective date of this Contract as set forth in the Original Negotiated Contract was January 1, 2014 to August 31, 2017. Pursuant to Amendment No. 16, the term of the Original Negotiated Contract was extended to August 31, 2018. The contract period under this Contract will be from September 1, 2018 through August 31, 2020.

### **Article IV. DFPS Mission and Scope.**

The mission of DFPS to protect children, the elderly, and people with disabilities from abuse, neglect, and exploitation by working with clients, families, and communities. The State of Texas, by and through DFPS, and pursuant to its authority under Texas Human Resources Code § 40.058, seeks to enter into a contract under its Child Protective Services (CPS) program for the provision of a full continuum of paid foster care and purchased services for children and youth in conservatorship and their families, pursuant to implementation of a redesigned foster care approach and in accordance with the specifications contained in and referenced by Request for Proposals (RFP) Procurement 530-13-0070 FCR and this Contract Number 24118890.

### **Article V. Authority and Governing Law.**

The State of Texas, by and through DFPS, and pursuant to its authority under Texas Human Resources Code § 40.058, enters into this contract under its Child Protective Services (CPS) program. This Contract will be governed by and construed in accordance with the laws of the State of Texas with venue in State District Court, Travis County, Texas. DFPS agrees to purchase the services noted in this Contract, and Contractor agrees to provide these services according to the terms and conditions set forth in this Agreement.

## **Article VI. Incorporation by Reference.**

The following documents are incorporated into the Contract for all purposes and are on file with the Department, the Contractor, and subcontractor(s).

Section 6.01 Exhibit A: DFPS Statement of Work Version 3.0

Section 6.02 Exhibit B: DFPS SSCC Uniform Terms and Conditions

Section 6.03 Exhibit C: Funding Matrix

Section 6.04 Exhibit D: Change Log Version 3.0

Section 6.05 Exhibit E: Performance Measures

Section 6.06 ACH Child and Family Services' responses to the RFP 530-13-0070 FCR, including:

(A) Exhibit F: Data Use Agreement (DUA)

Section 6.07 HHSC Request for Proposal (RFP) 530-13-0070 FCR.

## **Article VII. Order of Precedence.**

Contractor will provide the services and deliverables described and required by all of the documents listed in this Article. In the event of conflicts or inconsistencies between documents, such conflicts or inconsistencies will be resolved by reference to the documents in the following order of priority:

**Section 7.01** First, this Contract and any amendments recorded in Exhibit D: Change Log to this Contract;

**Section 7.02** Second, Exhibit A to this Contract: DFPS Statement of Work Version 3.0;

**Section 7.03** Third, Exhibit B to this Contract: DFPS Region 3b SSCC Uniform Terms and Conditions; and

**Section 7.04** Fourth, HHSC Request for Proposals 530-13-0070 FCR.

## **Article VIII. Delivery of Notices.**

DFPS will designate a Contract Manager for this Contract. The Contract Manager will serve as the point of contact between DFPS and Contractor. Any notice required or permitted under this Contract by one party to the other party must be in writing and correspond with the contact information noted in this section. At all times, Contractor will maintain and monitor at least one active electronic mail (e-mail) address for the receipt of Contract-related communications from DFPS and it is the Contractor's responsibility to monitor this e-mail address for Contract-related information.

**Section 8.01 Contractor's Contact Information.** The contact information of the Contractor for all notices is:

Wayne Carson  
Chief Executive Officer  
ACH Child and Family Services  
3712 Wichita Street  
Fort Worth, TX 76119  
(817) 886-7103  
wayne.carson@ACHservices.org

**Section 8.02 State Agency's Contact Information.** The contact information of DFPS for all notices is:

Audrey Carmical  
General Counsel  
P.O. Box 149030, MCE611  
Austin, TX 78714-9030  
Audrey.Carmical@dfps.state.tx.us

Judy Pavone  
DFPS Contract Administration Manager  
Mailcode W-157  
P.O. Box 149030  
Austin, TX 78714-9030  
(512) 438-3596  
judy.pavone@dfps.state.tx.us

#### **Article IX. Changes to Contract.**

The parties to this Contract may make modifications to the Contract according to the requirements of this Article.

**Section 9.01 Bilateral Amendment.** Either party to this Agreement may modify this Contract by execution of a mutually agreed upon written amendment signed by both parties.

**Section 9.02 Unilateral Amendment.** The Department reserves the right to amend this Agreement through execution of a unilateral amendment signed by the DFPS Contract Manager and provided to the Contractor with ten (10) days' notice prior to execution of the amendment under the following circumstances, allowing for an additional five (5) days for response from the SSCC prior to the unilateral amendment taking effect:

- (A) to correct an obvious clerical error in this Contract;
- (B) to incorporate new or revised federal or state laws, regulations, or rules;
- (C) to comply with a court order or judgment;
- (D) to change the name of the Contractor in order to reflect the Contractor's name as recorded by the Texas Secretary of State;
- (E) to change the name of the designated DFPS mailing address or DFPS contact person for this Contract; or
- (F) to change the recorded license number of any license needed under this Contract in order to reflect the current number as issued by the licensing authority.

**Section 9.03 Exhibit D:** Change Log will contain the record of all amendments made to the documents referenced in Article VI of this Contract.

**Article X. Severability.**

Invalidity or unenforceability of one or more provisions of this Contract will not affect any other provision of this Contract. If a part of the Contract is determined invalid or unenforceable, a clause of as similar terms as may be legally possible may be added in order to make the prior intent of such provision legal, valid, and enforceable.

**Article XI. Survivability**

All obligations and duties of the SSCC not fully performed as of the expiration or termination of this Contract will survive the expiration or termination of the Contract.

**Article XII. Non-waiver.**

Failure to enforce any provision of this Contract does not constitute a waiver of that provision, or any other provision, of the Contract.

**Article XIII. No Third Party Rights**

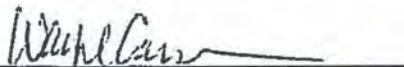
This Contract is not intended to and cannot be construed to give any third party any interest or rights (including, without limitation, any third party beneficiary rights) with respect to or in connection with any Contract provision contained in this Contract, except as otherwise expressly provided for in this Contract.

**Article XIV. Signature.**

**Section 14.01 Merger.** This Contract contains the entire agreement between Contractor and DFPS and supersedes any prior understandings or oral or written agreements between DFPS and Contractor, including the Original Negotiated Contract and all seventeen amendments thereto.

**Section 14.02 Signatories.** The undersigned signatories represent and warrant that they have full authority to enter into this Contract on behalf of the respective parties.

  
H.L. Whitman  
Commissioner, DFPS

  
Typed/Name  
ACH Child and Family Services

Date: 8-28-2018

Date: 8/27/18

Contract #24118890

Amendment #21

This AMENDMENT (Amendment) of Contract #24118890 is entered into by and between the Texas Department of Family and Protective Services (DFPS or the Department) and ACH Child and Family Services (Contractor).

**1. Background; Purpose**

The Department procured Contract #24118890 under RFP #530-13-0070 for Single Source Continuum Contractor services. The Department and Contractor entered into a Negotiated Contract with an original effective date from January 1, 2014 to August 31, 2017 ("Original Negotiated Contract"). The Original Negotiated Contract was amended pursuant to seventeen separate agreements and Amendment No. 16 extended the term of the Original Negotiated Contract to August 31, 2018.

The Original Negotiated Contract was amended and restated in August 2018 (the "Restatement"). The Restatement amended and restated the Original Negotiated Contract, as amended pursuant to the seventeen amendments thereto, and superseded the Original Negotiated Contract and all seventeen amendments thereto. (The Department refers to the Restatement as Amendment No. 18 even though Amendments No. 1 through 17 were superseded pursuant to the Restatement.) The term of Contract #24118890 in the Restatement was from September 1, 2018 through August 31, 2020.

Since August 2018, the Restatement has been amended pursuant to Amendment Nos. 19 and 20.

The term "Contract" utilized herein refers to the Restatement (referred to as Amendment No. 18 by the Department) and Amendment Nos. 19 and 20.

The Department and Contractor desire to enter into this Amendment (referred to as Amendment No. 21 by the Department) to extend the term of the Contract beyond August 31, 2020. Section 9.01 provides that the Contract may be modified through a written amendment mutually agreed upon and signed by both parties.

**2. Effect of Amendment on Contract**

2.1. Unless otherwise modified, the terms and conditions of the Contract shall remain in full force and effect.

2.2. Revision 21.1. This Amendment modifies the Contract by deleting Article III in its entirety and replacing it with the following new Article III:

"The original effective date of this Contract as set forth in the Original Negotiated Contract was January 1, 2014 to August 31, 2017. Pursuant to Amendment No. 16, the term of the Original Negotiated Contract was extended to August 31, 2018. Pursuant to Amendment No. 18, the term of the Contract was from September 1, 2018 to August 31, 2020. Pursuant to this Amendment (referred to as Amendment No. 21 by the Department), in order to comply with Texas Family Code Section 264.158, the term of the Contract is extended to August 31, 2023. Notwithstanding the foregoing, the term of the Contract may be extended beyond August 31, 2023 upon the mutual agreement of the parties to permit Contractor to perform under Stage III of the Contract for a period of at least one year."

**Purchased Client Services Contract  
Amendment**

**3. Contractor Representations.** Contractor represents, and requests the Department to rely on these representations:

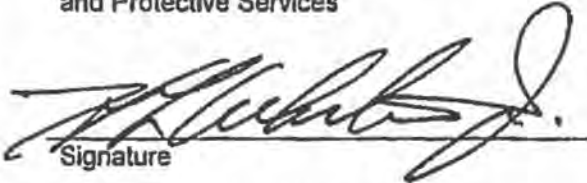
3.1. If any material facts have changed, the Contractor has attached new and current documents as indicated by the Department.

3.2. By signing this Amendment, the Contractor represents and warrants to the Department that Contractor still complies with all previously submitted Certifications made when entering into the Contract.

The parties to Contract #24118890 have duly executed this Amendment to be effective as of 07/01/2019 upon the completed signatures of both parties.

Texas Department of Family  
and Protective Services

Contractor: ACH Child and Family Services



Signature



Signature

Printed Name: H. L. Whitman, Jr.

Printed Name: Wayne Carson

Title: Commissioner

Title: CEO

6-21-2019  
Date

6/20/19  
Date