

**AGREEMENT BETWEEN  
THE ESCAMBIA CHILDREN’S TRUST  
AND  
CITY OF PENSACOLA, FLORIDA**

**I. PURPOSE**

The ESCAMBIA CHILDREN’S TRUST, hereinafter referred to as "ECT," and CITY OF PENSACOLA, FLORIDA, hereinafter referred to as "Provider," enter into this mutual Agreement, hereinafter referred to as this “Agreement”, including all attachments referred to herein for the provision of services on behalf of children in Escambia County. This Agreement is a cost-reimbursement agreement.

**II. TERM**

The initial term shall be for a period of one (1) year commencing on March 1, 2023 and extending through February 29, 2024. This Agreement does not take effect, and ECT has no responsibility for any of its obligations hereunder, until this Agreement is executed by all parties to this Agreement. There shall be no reimbursement for any expenses occurring outside of the effective dates of this Agreement.

**III. RENEWAL**

This Agreement is eligible for an annual renewal for a maximum of three (3) years. Renewals are subject to ECT board approval and shall include an evaluation of Provider’s performance to include an evaluation of monitoring reports, a history of expenditures, a review of fiscal and programmatic monitoring results, and submission of a new annual budget.

No less than sixty (60) days prior to the contract term date, ECT staff will perform the necessary review and make a recommendation to the ECT board regarding renewal. The proposed renewal or termination shall be on an ECT board agenda at least forty-five (45) days prior to the termination date.

**IV. ENTIRE AGREEMENT**

This Agreement contains all the terms and conditions agreed upon by the parties with respect to the subject matter of this Agreement. No other agreements regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**V. PROVIDER AS INDEPENDENT CONTRACTOR**

The Provider agrees that it shall be an independent contractor and that its officers, employees,

or representatives shall not be considered employees of ECT. The Provider will be fully responsible for all social security payments, withholding taxes, workers' compensation insurance and liability insurance for the Provider, its officers, employees and representatives, and ECT shall have no responsibilities for such items.

#### **VI. STAFF**

Provider agrees to employ staff, at its own expense, to execute services provided in accordance with this Agreement. Such individuals shall not be considered employees of ECT, and are subject to the supervision, personnel practices, and policies of the Provider. Unless otherwise approved by ECT, all Provider staff shall meet qualifications as stated in the approved position profile on file at ECT and any approved revisions. The position profiles shall be provided to ECT prior to the execution of this Agreement and are attached hereto as **Exhibit F**.

#### **VII. CONTINUING OBLIGATION TO KEEP ECT INFORMED**

The parties agree that their relationship will be enhanced and the possibility of misunderstandings or disputes will be reduced if they communicate periodically. In particular, the Provider acknowledges the importance in keeping ECT informed relative to the services it is providing. The Provider will promptly notify ECT prior to any significant change(s) in the delivery of the services as set forth in its proposal. Significant changes that would require notification to ECT would include, but not be limited to, the commencement or conclusion of employment of key staff, such as the executive director or program coordinator. In addition, the Provider must notify and obtain ECT's approval prior to effectuating any material change(s) in the delivery of services set forth in its proposal. Material change(s) would include, but not be limited to, location of facilities where services are being provided, the number of staff assigned to a service delivery site, or any unanticipated budgetary impacts such as changes to staffing, supply costs, or changes that otherwise impact the cost of services. The Provider agrees to permit ECT and its staff to conduct site visits.

#### **VIII. SHARING INFORMATION**

The Provider agrees to share with ECT, and other agencies as specified by ECT, such information and data, which ECT determines is appropriate. The information and data to be collected is outlined in the attached Data Collection Requirements, attached hereto as **Exhibit C** and incorporated herein by reference. To facilitate this sharing of information, the Provider agrees to have an appropriate release form signed by the parent or guardian of each client being served through the ECT's funding. Minimum demographic information will include client unique identifier, street address, zip code, sex, race, age, if a teen parent, if family is served, primary service component, and outcomes. Data will be shared via ECT's website, electronic database, or spreadsheet (as applicable). All shared information is subject to the Confidential Information and Public Records provisions contained in this Agreement.

## **IX. SERVICES/SCOPE OF WORK**

Provider agrees to deliver services as stated in the attached ECT approved Solicitation Response or Unsolicited Grant Application Form, attached hereto as **Exhibit A**, and incorporated herein by reference. Provider agrees to accomplish Performance Measures outlined in the Performance Measurements attached hereto as **Exhibit B**, and incorporated herein by reference. Exhibits A and B together form the Scope of Work for this Agreement. A Scope of Work update, or certification that no updates are needed, is due for submission prior to execution of this Agreement. Any proposed changes in service delivery after execution of this Agreement, must be approved in writing by ECT in advance of making those changes, and Scope(s) of Work shall subsequently be updated within ten (10) calendar days of that approval. See Section XV. General Conditions, subparagraph 31, Amendments. Costs associated with any unapproved changes in service delivery may not be reimbursed.

## **X. METHOD OF PAYMENT**

1. ECT agrees to reimburse up to **\$540,041.00** for services rendered pursuant to this Agreement, for actual costs incurred for services rendered pursuant to this Agreement.
2. All requests for reimbursement must be certified true and correct by the Provider and must be accompanied by the appropriate documentation as prescribed by ECT which may include but not be limited to receipts, purchase orders, cancelled checks, price quotes, or other supporting information to document that the expenditure was reasonable, allocable, and allowable.
3. Requests for reimbursement shall be made using the ECT Reimbursement Request Form, attached hereto as **Exhibit D**, until such time as the SAMIS Client Relationship Management portal is launched. Once the SAMIS Client Relationship Management portal is launched, ECT shall notify the Provider and all subsequent requests for reimbursement shall be submitted electronically through SAMIS .
4. Requests for reimbursement are due to ECT by the 20<sup>th</sup> day of the month following the date the related expenses are incurred.
5. The Provider shall submit a request for payment at a minimum of once a month. No more than two (2) requests for reimbursement may be submitted per month.
6. Reimbursement requests shall be submitted timely and only for amounts actually incurred that should properly be reimbursed per this Agreement within reasonably needed amounts based on the budget and other funding sources.
7. ECT issues reimbursements within 21 days of receipt of a request for reimbursement. Reimbursements shall be made on pace throughout the fiscal year in order to allow for a consistent and orderly delivery of services.
8. ECT has the right to withhold or suspend payment if the Provider has not met the performance measures contained within this Agreement.

## **XI. TERMINATION**

1. It is the intent of ECT to ensure a consistent and orderly delivery of services. It is the further intent of ECT to terminate Agreements in those situations where such action is essential to the protection of its interests and the interests of children and families served by ECT, as determined solely by ECT.
2. In the event funds to finance this Agreement become unavailable, ECT may terminate this Agreement upon no less than twenty-four (24) hours' notice in writing to the Provider. Said notice shall be delivered by certified mail, return receipt requested.
3. ECT shall endeavor, whenever possible and consistent with its legal obligations and principles of prudent management, to provide thirty (30) days' notice for termination due to lack of funds. ECT shall be the final authority as to the availability of funds and extension of notice beyond the minimum time herein stated.
4. This Agreement may be terminated by ECT for any breach of terms by the Provider upon twenty-four (24) hours written notice. Said notice shall be delivered by certified mail, return receipt requested.
5. Provider shall only be compensated for services performed prior to the termination date. Provider may only terminate this Agreement upon thirty (30) calendar days' written notice to ECT delivered by certified mail, return receipt requested.
6. The above provisions shall not limit ECT's right to remedies at law or to damages.
7. ECT has the right to terminate this Agreement if the Provider fails to meet the performance measures specified in this Agreement.
8. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination.
9. Provider understands and acknowledges that the funding will only be for the term stated herein.

## **XII. APPROPRIATION OF FUNDS**

1. ECT's performance and obligation to pay under this Agreement are contingent upon an annual appropriation for its purpose by ECT. In the event funds to finance this Agreement become unavailable or are not appropriated, ECT, at ECT's sole discretion, may terminate this Agreement upon no less than twenty-four (24) hours' notice, in writing by certified mail, return receipt requested, to the Provider.
2. Notwithstanding anything herein to the contrary, the parties agree that the dollar amount set forth in Section X, Method of Payment, Paragraph 1 above may be reduced in the event that ECT determines that the Provider will not spend the entire amount allocated during the term of this Agreement. This determination may be made (a) based upon ECT's review of Provider's program and its expenditure history or (b) during the course of reviewing a budget revision submitted by the Provider pursuant to ECT's procedures. Before any such reduction becomes final, the Provider will be notified in writing of the proposed action and shall have the opportunity to address ECT regarding the proposed reduction. Such written notification shall occur not less than ten (10) days prior to the Board meeting where such action is to be considered.

Any proposed reduction will be determined by the ECT Board. The decision of ECT on this issue shall be within its sole discretion and shall be final.

### **XIII. COMMENCEMENT OF PAYMENT**

Payment shall not be made for services rendered prior to the commencement date of this Agreement.

### **XIV. AUTHORITY**

Each party represents and warrants to the other party that it has full power and authority to enter into and is fully licensed and able to perform its obligations under this Agreement, and this Agreement constitutes a legal, valid and binding obligation, enforceable in accordance with its terms.

### **XV. GENERAL CONDITIONS**

#### **1. Agreement Revisions**

This Agreement and its attachments constitute the contractual relationship between the Provider and ECT. If there is any discrepancy between program-related documents, this Agreement preempts all other documents. No amendment to this Agreement or its attachments may be made without the prior written approval of ECT and Provider. See subparagraph 31, Amendments, contained herein.

#### **2. Fiscal Responsibility**

- a. Provider agrees to maintain books, records, and documents (including electronic storage) in accordance with generally accepted accounting principles and practices which accurately and appropriately reflect all expenditures of funds listed in the approved budget attached hereto as **Exhibit E** and incorporated herein by reference.
- b. Provider agrees that all financial records and supporting documentation shall be subject at all times to inspection, review, or audit by ECT personnel or its duly authorized agent.
- c. Provider agrees to maintain and file with ECT in a timely fashion, reports related to services provided under this Agreement.
- d. Provider agrees to retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of five (5) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of five (5) years, all records shall be retained until resolution of audit findings.
- e. Provider shall provide supporting documentation (board meeting minutes, etc.) for all salary adjustments.
- f. ECT shall not reimburse expenses not previously approved by ECT. All expenses must

be specified within the approved budget, based on the scope of work, reasonable, allocable to the project, and accompanied by appropriate backup documentation.

- g. Provider shall include all audit and recordkeeping requirements of this Agreement in all approved subcontracts and assignments hereunder.

### **3. Audit and Management Letter**

ECT is committed to assurances that all funds provided are being used consistent with its policies and in the best interest of the children and taxpayers of Escambia County.

- a. An independent audit is required for organizations receiving annual contributions of \$1,000,000 or more. If Provider receives annual contributions of \$1,000,000 or more: Upload three most recent years of audited financial statement summaries and disclosures to include internal control reports and any accompanying management letters, OR individual tax returns and personal financial statement of net worth for the most recent year if Proposer is an individual proprietor. Privately held companies wishing to maintain confidential financial information must have Dunn & Bradstreet Reports (D&B). If any of these statements include a material weakness or significant deficiency, include a letter of explanation.
- b. For those with annual contributions of at least \$500,000 but less than \$1,000,000, the organization's financial statements may be reviewed or audited by an independent CPA. If Provider receives annual contributions of at least \$500,000 but less than \$1,000,000: Upload three most recent financial statements reviewed or audited by an independent CPA.
- c. For those with less than \$500,000 in annual contributions, a compilation, audit, or review of the financial statement is optional under Florida statute, but ECT requires that programs with revenue of less than \$500,000 undergo either an audit or a fiscal review each fiscal year. The review shall be performed consistent with the American Institute of Certified Public Accountants (AICPA) Standards for Government/Non-Profit Organizations, or other mutually agreed upon standards. If Provider receives less than \$500,000 in annual contributions: Upload three most recent 990s, compilations, audits, or reviews of financial statements.

The Provider agrees to submit to ECT a fiscal review or an independent audit of the financial statements of the entity in its entirety and any accompanying management letter(s) immediately upon receipt by the Provider's board, but within a period not to exceed one hundred and eighty (180) calendar days of the close of the Provider's fiscal year. The audit must be performed by a firm licensed to perform audits in the State of Florida and conducted in accordance with generally accepted auditing standards and standards established by the American Institute of Certified Public Accountants (AICPA). The Provider is required to engage an audit firm or CPA that follows Government/Non-Profit Audit Standards when conducting the financial audit and that shows evidence of a peer review report completed every three (3) years.

The Provider's auditor must comply with the Independence Rule and comply with the General Requirements for Performing Nonattest Services and Documentation Requirements When Providing Nonattest Services. Such nonattest services include: (1) financial statement preparation; (2) cash to accrual conversions; (3) reconciliations; (4) advisory services; (5) appraisal, valuation and actuarial services; (6) benefit plan administration; (7) bookkeeping, payroll and other disbursements including proposed standard, adjusting or correcting journal entries; (8) preparation of depreciation schedules; (9) business risk consulting; (10) corporate finance consulting (11) executive or employee recruiting; (12) forensic accounting; (13) hosting services; (14) information systems design, implementation or integration; (15) internal audit; (16) investment advisory or management; (17) tax services.

#### **4. Other Financial Support**

- a. Provider shall report within thirty (30) calendar days any major changes in non-ECT revenue which would impact targeted service levels in ECT funded programs during the fiscal year.
- b. ECT funds shall not be used to supplant other sources of revenue.
- c. Revenues earned by an ECT funded program must remain in that program as a condition of funding. ECT funding may not result in a prohibited private benefit (i.e., a profit) for the Provider.
- d. Provider may not charge any fee or tuition for services or programs funded by ECT.

#### **5. Program Monitoring and Data Quality**

Provider agrees to assign appropriate staff as necessary to attend meetings with ECT and/or staff to discuss issues and recommendations including, but not limited to, quality of service, service delivery systems, coordination of services, client satisfaction, records, maintenance, and funding maximization.

Provider agrees to submit monitoring, site visit, accreditation, and licensing reports supplied by funding, accreditation, and licensing entities, as applicable, to ECT no more than thirty (30) calendar days following Provider receipt.

Provider agrees to submit quarterly progress reports no later than the end of each quarter and other information in such format and at such times as may be prescribed by ECT (including via SAMIS, Secure Portals, and Provider specific data collection systems), and to cooperate in monitoring activities including, but not limited to, access to sites, staff, fiscal and participant records, logs, participant rights and responsibilities policies, participant handbooks, grievance and complaint procedures, and the provision of related participant and participant rights information. Provider agrees to respond to any monitoring findings within the time frame specified therein. Provider shall maintain and have available for audit inspection participant records for five (5) years post termination of services. Provider agrees to abide by the ECT policies regarding program monitoring.

Provider agrees to provide ECT representatives access, without presence of the Provider supervisor, to staff or program participants during any monitoring, with or without advance notice. Youth participants will be interviewed only in group settings or with Provider staff present unless parental consent is obtained.

Provider staff shall adhere to ECT's performance reporting and data collection requirements and ECT's financial policies and procedures for funded programs. All staff who have any responsibility (supervisory or direct) for data entry shall be trained within thirty (30) calendar days of hire. The Provider is responsible for maintaining written policies and procedures for providing data to ECT in a timely manner. The Provider is responsible for reviewing SAMIS permissions to ensure that all users are active employees with access to appropriate data systems and modules as required. The Provider is responsible for implementing appropriate procedures into their data policies to protect data and prevent accidental or malicious disclosure of participant information. The Provider is responsible for maintaining fiscal access and workflow approval throughout the fiscal year.

Provider shall notify ECT no less than ninety (90) days prior to implementation of data system(s) used for participant and/or financial information that are used to share data with ECT.

ECT and Provider shall maintain the confidentiality of client services and records in full accordance with any federal or state laws or federal regulations mandating such confidentiality.

## **6. City Council Members**

Within thirty (30) calendar days of approval or a change of City Council composition, Provider shall submit to ECT an updated list of City Council members to include the start date of all members and, for City Council chair only, the email and physical address, phone number, and place of employment.

## **7. Nondiscrimination**

Provider shall not discriminate against an employee, volunteer, or participant of the Provider on the basis of race, color, gender, religion, national origin, citizenship, disability, marital status, age, veteran status, sexual orientation, pregnancy, and genetic information, or any other legally protected category except that programs may target services for specific participant groups as defined in the application. Additionally, Provider shall demonstrate the standards, policies, and practices necessary to render services in a manner that respects the worth of the individual and protects and preserves the dignity of people of diverse cultures, classes, races, religions, and ethnic backgrounds.

## **8. Publicizing of ECT Support - Endorsements**

Provider shall distribute a press release announcing that it has been awarded funding by Escambia Children's Trust.

Provider website shall include the ECT logo that links to the ECT website landing page at [www.escambiachildrenstrust.org](http://www.escambiachildrenstrust.org).

ECT's logo must be visible at Provider's administrative and program sites, be featured on the Provider's website, and be present on the following Provider materials as an acknowledgement of support:

- Annual report
- Program brochures and marketing materials

## **9. Assignments and Subcontracts**

The Provider shall be prohibited from subcontracting, selling, assigning, or otherwise transferring its interest in this Agreement to any other person, governmental entity, firm or corporation except upon prior written agreement of ECT, which ECT may withhold in its sole discretion, ECT and the Provider each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.

No such approval by ECT of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation by ECT in addition to the total dollar amount stated in this Agreement. ECT shall have the right to require the Provider to replace any Subcontractor found, in the reasonable judgment of ECT, to be unacceptable.

All such assignments or subcontracts shall be subject as applicable to the terms and General Conditions of this Agreement and to any conditions of approval that ECT shall deem necessary. Subcontracts for program service delivery described in the approved program methodology must be reviewed according to the Subcontract Assessment. The assessment outlines elements that must be included in subcontracts. Subcontracts and the corresponding Subcontract Assessment shall be submitted to ECT within thirty (30) calendar days of the effective date of this Agreement and upon revision, amendment, and execution of the subcontract thereafter.

Provider shall have full responsibility for the successful performance and completion of all subcontracted duties under this Agreement to the same extent as if the Provider performed such duties. The Provider shall be the sole point of contact for subcontracts with regard to all matters under this Agreement. Provider is responsible for monitoring subcontracts of ECT funded programs unless otherwise specified in a Special Condition of this Agreement. Documentation of monitoring of subcontracts shall be submitted to ECT no more than thirty (30) calendar days following completion of the monitoring activities.

## **10. Confidential Information**

Provider must follow all laws regarding confidentiality of information. Provider shall not use or disclose any information which specifically identifies a recipient of services under this Agreement, and shall adopt appropriate procedures for employees' handling of confidential data with the following exceptions: a) such information may be revealed as may be necessary to conform to Fiscal Responsibility and Program Monitoring requirements as stated in the General Conditions of this Agreement; b) such information may be revealed as may be necessary pursuant to applicable federal, state, or local law and related regulations; and c) such information may be revealed with the written consent (authorization) of the recipient, or the recipient's responsible parent or guardian, where authorized by law. Provider is responsible to adopt appropriate policies, notifications, authorizations, and other relevant information that allows for the sharing of confidential information with ECT.

The Provider shall also maintain in participant files a completed copy of a ECT-approved form for authorizing client consent to release information for each participant receiving services. As allowed by law and Provider policy, the Provider shall add ECT to consent forms including HIPAA consent forms to facilitate data sharing and implement the Fiscal Responsibility and Program Monitoring requirements as stated in the General Conditions of this Agreement and advise ECT within two (2) business days if a participant has withdrawn consent to share data and note this withdrawal of consent in the case file. ECT has full discretion as to the use of data and ECT owns all data once transferred to ECT.

Provider shall obtain permission and license for the use of any and all photographs, videotaping, audio recordings, or written interviews/stories of participants, to include use of name, image and other identifiable information in connection with a press release, news story, testimonial, or story that may be viewed by the general public, and that the participant will not receive compensation for participation in the use of this information. For youth under the age of eighteen (18), Provider will obtain the signature of a parent or legal guardian.

In no event should participant identifying information ever be emailed or faxed to ECT.

In the event of an improper disclosure of participant information by Provider, Provider shall inform ECT of the improper disclosure and extent thereof within two (2) business days of becoming aware of the improper disclosure. Provider shall cooperate fully with ECT and take all necessary steps to correct and remedy any damage caused by the Provider's improper disclosure and to prevent future improper disclosure. Provider shall defend, indemnify and hold harmless ECT from any and all damages caused by the improper disclosure of any confidential information as defined by law and any and all costs associated with remedying the disclosure. Provider shall defend, indemnify and hold harmless ECT from any and all damages caused by the improper disclosure as defined by law of any information including but not limited to personally identifiable information (PII) and protected health information (PHI) as required under HITECH and FIPA regulations or other information that is confidential and/or

exempt from disclosure per F.S. 119. This provision shall survive the termination of this Agreement.

Likewise, in the event of an improper disclosure of Provider's participant information by ECT, ECT shall inform Provider of the improper disclosure and extent thereof within two (2) business days of becoming aware of the improper disclosure. ECT shall cooperate fully with Provider and take all necessary steps to correct and remedy any damage caused by ECT's improper disclosure and to prevent future improper disclosure.

## **11. Public Records**

ECT is a public entity subject to Florida's Public Records Law, which includes provisions relating to records retention, production, and confidentiality. Provider subcontracts that arise out of this Agreement must apply the entirety of this public records condition to the Subcontractor.

**IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Escambia Children's Trust**  
**1000 College Boulevard, Ste. 1100-H**  
**Pensacola, FL 32504**  
**(850) 475-4980**  
[info@escambiachildrenstrust.org](mailto:info@escambiachildrenstrust.org)

Provider must comply with 119.0701 and must:

- a. Keep and maintain public records required by ECT to perform the service.
- b. Upon request from ECT's custodian of public records, provide ECT with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in F.S. 119 or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Provider does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to ECT all public records in possession of Provider or keep and maintain public records required by ECT to perform the service. If the Provider transfers all public records to ECT upon completion of the contract, Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Provider keeps and maintains public records upon completion of the contract, the Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to ECT, upon request from ECT's custodian of public

records, in a format that is compatible with the information technology systems of ECT.

In addition, Provider should be aware that Social Security numbers are confidential and exempt from disclosure (119.071(5)) and personal identifying information of a child or the parent or guardian of the child held by ECT or service provider under contract with ECT is exempt from disclosure (125.901(11)). There are many other exemptions in the law that Provider should be cognizant exist. However, for Provider, any and all contracts between ECT and Provider, program methodology, budgets, requests for reimbursements, emails, other written correspondence and any other documents exchanged between the Provider and ECT are generally public records and will be disclosed in the sole discretion of ECT and must be retained in accordance with Florida's record retention policy. Providers should not provide any documents to ECT containing Trade Secrets, as defined by F.S. 812.08, or exempt or confidential and exempt information to ECT without specifically marking such document. By submitting any documents or information whatsoever to ECT, Provider agrees that ECT may use and disclose all information and documents submitted for any purpose ECT sees fit and that it is within ECT's sole discretion to determine if any information submitted is exempt from disclosure.

Any Provider who receives a public records request for records pertaining to ECT or services funded by ECT, must advise ECT within two (2) business days of the records request and ECT and Provider will work together to respond to any such request. This provision shall survive termination of this Agreement.

## **12. Return of Funds**

Provider agrees to return to ECT any overpayment due to costs not incurred or costs disallowed pursuant to the terms of this Agreement and such funds shall be considered ECT funds and shall be refunded to ECT in accordance with its instructions. Should Provider fail to return said funds, Provider shall be responsible for all costs and fees of collection incurred by ECT - including, but not limited to, attorney fees and court costs including any pre-suit collections fees and costs. This provision survives termination of this Agreement and return of funds for overpayment or disallowance will be required even if the overpayment or disallowance is discovered after this Agreement is terminated.

## **13. Special Situations and Incidents**

Provider agrees to inform ECT in writing within one (1) business day of any circumstances or events which may reasonably be considered to jeopardize its capability to continue to meet its obligations under the terms of this Agreement. Participant incidents are required to be reported for situations that occur only while under the Provider's care and includes anything that may reflect negatively or critically upon ECT.

Certain personnel are mandated by law to report their suspicions of child abuse, neglect, or abandonment to the Florida Abuse Hotline (1-800-96-ABUSE). All concerns regarding

suspected abuse, neglect, or abandonment of a child or vulnerable adult by the Provider shall first be reported to the Florida Abuse Hotline and then reported to ECT. Incident reporting does not preclude mandated reporting requirements.

Critical Incidents are defined as follows:

- a. Abduction - An incident in which an individual who does not have care and custody of a child has taken the child. Concerns of child abductions shall immediately be reported to the appropriate law enforcement personnel.
- b. Abuse or Neglect - Reasonable cause to suspect that a child has been harmed or is believed to be threatened with harm while in the Provider's care.
- c. Breach of Information - Sensitive, protected or confidential data has potentially been viewed, stolen or used by an individual unauthorized to do so.
- d. Elopement- When a minor participant leaves a setting without permission or authorization.
- e. Employee Arrest - Employee conduct or activity that results in potential liability to the Provider or ECT, death or harm to a participant, or results in a law violation, including falsification of official records. If an arrest is made for a potentially disqualifying offense under Level 2 background screening requirements, or if the arrest occurred while in the performance of an employee's official duties, the incident should be reported immediately.
- f. Investigation or Lawsuit - Any formal investigation or legal action brought against Provider which relates to the services funded by ECT or which may reasonably be considered to jeopardize its capability to continue to meet its obligations under the terms of this Agreement.
- g. Media Coverage or Public Inquiry - Media coverage or public reaction that may have an impact on the Provider or ECT's ability to protect and serve its participants, or other significant effect on the Provider or ECT.
- h. Participant Death - The death of any participant receiving ECT services, regardless if the death occurred while under Provider's care.
- i. Participant Illness - An illness of a participant requiring a response by Emergency Medical Services AND transport to a medical facility due to the severity of the illness while participant is attending the program.
- j. Participant Injury - A medical condition of a participant requiring a response by Emergency Medical Services AND transport to the hospital due to the severity of the medical condition or injury while the participant is attending the program. *Note in both instances of Participant Illness and Participant Injury the parents may use Emergency Medical Services as transportation to the hospital - if it is used solely for this purpose an incident report is not required. In the event that the participant leaves the program and requires emergency care due to an injury or illness incurred at the program, an incident report should be completed when the program becomes aware.*
- k. Sexual Battery - An allegation of sexual battery involving a participant or employee as evidenced by medical evidence or law enforcement involvement. Sexual battery includes participant on participant incidents, employee, agent or volunteer on

participant, and participant on employee, agent or volunteer.

- I. Suicide Attempt - An act which clearly reflects the physical attempt by an active participant to cause his or her own death, which results in bodily injury requiring medical treatment by a licensed health care professional.

In addition, the Provider shall notify ECT immediately upon knowledge of any action or incident involving Provider staff or volunteers that could potentially jeopardize the terms of this Agreement which includes misconduct, malfeasance during working hours, or any conduct that results in the arrest of a staff member or volunteer after hours.

Within one (1) business day, the Provider must submit electronically by email to [info@escambiachildrenstrust.org](mailto:info@escambiachildrenstrust.org) a completed Incident Report to ECT with full details and disposition of the incident, excluding identifying information such as name, date of birth, and address. In the event of a participant death, please contact by phone the ECT Executive Director within three (3) hours of knowledge of the incident.

All email communications made or received by ECT members or staff are considered public records and are retained and, upon request, made available to the public and media in accordance with Chapter 119, Florida Statutes.

Provider must adhere to the reporting requirements hereunder after the termination of this Agreement if Provider becomes aware of a Critical Incident after the termination of the Agreement if the Critical Incident occurred during the term of the Agreement and/or relates to the services funded by ECT.

#### **14. Provider Staff Membership on Board**

Provider agrees that Provider staff shall not serve as voting members of the Provider's governing board.

#### **15. Provider & Program Data Maintained In 2-1-1 Database**

Provider agrees to maintain accurate and up-to-date Provider and program data in the 2-1-1 Northwest Florida database. The Provider will review and update (as necessary) this data at least once annually. The Provider will list data for newly funded program(s) within thirty (30) calendar days of the date that ECT funds the program. This requirement applies to all programs accepting 2-1-1 referrals.

#### **16. Provider Staff Background Checks**

All program staff and Provider staff (including employees, independent contractors, and staff of subcontractors), volunteers and those who may have access to youth participants are required to undergo and pass a national Level 2 background check that complies with the standards set forth in F.S. 435. Those individuals must have no disqualifying offenses listed in F.S. 435.04. for which they have not received an exemption in accordance with Florida law. All

staff and volunteers must continue to qualify to pass a Level 2 screening at all times and must notify their employer if at any time they no longer qualify to pass a Level 2 screening. Proof of Level 2 background clearance, including current executed affidavits/attestations of good moral character, must be maintained at all times in the appropriate files and the screening repeated every five (5) years or more often in accordance with law or as requested by ECT. This requirement applies to employees regardless of the funder supporting the position and all volunteers and subcontractors who may have access to youth. Volunteers and subcontractors who assist on an intermittent basis for less than ten (10) hours per month do not have to be screened if a person who meets the screening requirement of this section is always present and has the volunteer and subcontractor within his or her line of sight. The Provider is required to clearly document which volunteers meet the criteria for a Level 2 background screening and affidavits of good moral character, and which are exempt according to the terms of this Agreement. The Provider's policy and practice for background screening must provide for adequate protection and must comply with all applicable laws and implementing regulations including, but not limited to F.S. 435.

The Florida Department of Children and Families provides an exemption process under this statute. ECT does not provide an exemption or waiver process.

Should a Provider not be statutorily authorized to receive a national Level 2 background check in accordance with F.S. 435, the Provider must still comply with the standards set forth in F.S. 435 through VECHS background screening. Only in the event the Provider does not qualify to receive a national Level 2 background check in accordance with F.S. 435 and is not eligible to participate in VECHS, then the Provider must engage a third-party vendor to conduct a national background check and must comply with the standards as set forth in F.S. 435.

Providers using VECHS, or any other third-party vendor which does not allow the release of background screening results to ECT, must sign and provide to ECT an affidavit which ensures compliance with the entirety of this section. This affidavit must be renewed annually by the Provider's Executive Director or equivalent and submitted within thirty (30) calendar days of the effective date of this Agreement and upon change of staff in this position. Provider must also provide a written procedure within thirty (30) calendar days of the effective date of this Agreement which outlines the process by which compliance is ensured with the entirety of this section, including the person responsible for conducting verification between results of VECHS information and the disqualifying offenses according to F.S. 435. Personnel and volunteer files shall reflect who verified whether the employee or volunteer candidate passed the background screening according to F.S. 435.04.

Provider agrees to submit to monitoring of personnel and volunteer files and other required documents to ensure compliance with this section. Monitoring will include, but not be limited to, review of training logs, position descriptions, applications, resumes and Provider verification of staff credentials. Providers shall not release PHI to ECT and shall keep this information separated from personnel and volunteer files. Parental consent for ECT

monitoring activities must be evident in the personnel and volunteer files of minor children.

### **17. Attendance**

Provider is required to keep attendance records. Attendance may be tracked in the ECT SAMIS Database or other approved data system.

### **18. Drug-Free Workplace**

The Provider shall have and enforce a Drug and Alcohol Free Workplace Policy. Provider agrees to submit to monitoring of its policy to ensure compliance with this section.

### **19. Public Entity Crimes**

Per Section 287.133, F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with a public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

### **20. ECT Policies and Procedures**

Provider agrees to follow all ECT policies and procedures which can be located on the ECT website at [www.escambiachildrenstrust.org](http://www.escambiachildrenstrust.org) and which are incorporated into this Agreement in their entirety. Said policies include, but are not limited to, all Board policies, funding policies, ECT financial policies and procedures for funded programs, research policies, security policies, ECT data quality guidance, and policies that may be promulgated by ECT within its sole discretion from time to time. ECT reserves the right to change these policies from time to time within its sole discretion. ECT will provide a minimum of thirty (30) calendar days' notice to the Provider and it is the responsibility of the Provider to be in compliance with all policies and procedures at all times.

### **21. Accreditation**

Provider is encouraged to provide certification of current accreditation by a recognized national accrediting body appropriate to the programming funded by ECT.

Regardless of accreditation, the Provider must meet the highest professional standards established through its specific field.

### **22. Conflict of Interest**

The Provider must have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder. The Provider further represents that no person having any such interest shall be employed or subcontracted by the Provider during the Agreement term and any extensions.

The Provider shall promptly notify ECT, by email to [info@escambiachildrenstrust.org](mailto:info@escambiachildrenstrust.org), of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the Providers judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Provider may undertake and request an opinion of the ECT Executive Director as to whether the association, interest or circumstance would, in the opinion of ECT, constitute a conflict of interest if entered into by the Provider. ECT agrees to notify the Provider of its opinion, in person, or by email, regular mail or delivery service, within thirty (30) days of receipt of notification by the Provider.

### **23. Insurance Requirements**

Prior to commencing any services under this Agreement, the Provider shall provide one copy of certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The certificates shall clearly indicate that the Provider has obtained insurance of the type, amount, and classification as required for compliance with this provision and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to ECT. Compliance with this provision shall not relieve the Provider of its liability and obligations under this Agreement.

- a. The Provider shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the minimum amount of \$1,000,000 per occurrence to protect the Provider from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the Provider or by anyone directly employed by or contracting with the Provider.
- b. The Provider shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the Provider from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the Provider's ownership, use, and/or maintenance of automobiles, including rented automobiles, for the provision of services under this Agreement or arising out of this Agreement. Proof of appropriate automobile liability insurance is required for any Provider employee or contractor who utilizes a privately owned automobile in order to provide the services detailed in its proposal to ECT or arising there-from.

- c. The Provider shall carry Workers' Compensation Insurance as required by Florida Statutes. In the event Provider does not carry Workers' Compensation Insurance and chooses not to obtain same, then Provider shall in accordance with Section 440.05, Fla. Stat., apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to ECT.
- d. Depending on the services to be provided, the Provider may be required to maintain, during the life of this Agreement, professional liability insurance or errors and omissions liability insurance in the minimum amount of \$1,000,000 per occurrence to protect the Provider from claims which may arise from or relate to any services provided under this Agreement, whether such services are by the Provider or by anyone directly employed by or contracting with the Provider.
- e. The Provider is also required to maintain any other insurance coverage deemed reasonably necessary during the life of this Agreement.
- f. Agencies of the State of Florida are exempt from specific insurance coverage levels. Such agencies must submit proof of statutory insurance coverage but are exempt from the specific levels of coverage proscribed herein.
- g. All insurance, other than Worker's Compensation and Professional Liability/Errors and Omissions (if required), to be maintained by the Provider shall specifically include ECT as an "Additional Insured". Each renewal of the respective certificate of insurance provided for above shall be submitted to ECT upon receipt by Provider. Failure to have and/or maintain the required insurance under this Agreement shall not relieve Provider of any obligation under this Agreement including without limitation indemnification of ECT.

#### **24. Transportation**

If children are being transported by, or on behalf of, the Provider, whether in Provider owned, rental or non-owned vehicles, the Provider must comply with the following requirements:

- a. All drivers must have a valid driver's license with the appropriate class certification (if applicable). A copy of each driver's license must be on file with the Provider.
- b. All vehicles must be insured as specified in Section 24, and
- c. A Transportation Permission Form must be signed by the parent or guardian of each child being transported. A copy of each Transportation Permission Form must be on file with the Provider.

#### **25. Use of Trust Funds for Inherently Religious Purposes Prohibited**

In accordance with the Establishment Clause of the First Amendment to the United States Constitution and the No Aid provision of Article 1, Section 3 of the Constitution of the State of Florida, the use of ECT funds for inherently religious purposes or to otherwise advance a religion is prohibited. The Provider shall not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the services provided and funded by ECT under this Agreement. The Provider agrees, as set forth in this Agreement, to provide

ECT full access to its books and records, and to permit ECT to monitor its activities and literature to ensure that ECT funds are not being used for inherently religious purposes or to otherwise advance a religion. Failure to comply with this provision will result in a reduction or denial of a reimbursement request or termination of this Agreement for cause as determined in the sole discretion of ECT.

## **26. Indemnification**

Provider shall defend, indemnify, and hold harmless ECT, its agents, and employees from and against any and all liabilities, claims, judgments, or actions including, but not limited to, attorney's fees and all costs that may hereafter at any time be made or brought by any person or entity on account of any claim including but not limited to, personal injury, property damage, loss of monies, civil rights violation, or discrimination allegedly caused in whole or part by any act or omission, including but not limited to, breach of contract, negligent act, wrongful act, intentional act, omission, and any acts of fraud or defalcation, of the Provider, its agents, employees, or subcontractors, arising out of or relating to its performance of this Agreement or for Provider's improper disclosure of confidential and/or exempt information, or failure to comply with F.S. 119 or any other applicable law, rule or regulation. In no event will the Provider be liable for or have any obligation to defend ECT against such liability, claims, judgments, or actions, including costs and attorney's fees, arising out of the sole negligent acts of ECT. This provision survives termination of the Agreement.

## **27. Time**

Time is of the essence in all respects under this Agreement.

## **28. Compliance with Laws**

In performing its obligations hereunder, each party agrees to comply in all material respects with all applicable laws. During the term of this Agreement, the Provider shall ensure that it is duly organized, validly existing and in good standing under the laws of Florida. If ECT becomes aware that a Provider's corporate status is administratively dissolved, ECT may terminate the Agreement if the Provider does not have its corporate status reinstated within 30 days' written notice by ECT.

## **29. Contract Documents and Controlling Provisions**

This Agreement consists of the terms and conditions herein and Provider's incorporated proposal. To the extent that there exists a conflict between this Agreement's terms and conditions and the Provider's incorporated proposal, the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

### **30. Applicable Law, Venue**

This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and venue for any litigation commenced relating to this Agreement shall be in Escambia County, Florida.

### **31. Amendments**

This Agreement may only be amended by mutual agreement of the parties, provided that the amendment is in writing and is executed by both parties.

Amendments shall not compromise the original intent or intended outcome(s) of the funded project.

Any changes to the Performance Measurements, Scope of Work, or Budget require prior written approval from ECT and shall follow the adopted policies and procedures of ECT.

### **32. Assignment; Successors and Assigns**

The Provider shall be prohibited from sub-contracting, selling, assigning, or otherwise transferring its interest in this Agreement to any other person, governmental entity, firm or corporation except upon prior written agreement of ECT, which ECT may withhold in their sole discretion. The ECT and the Provider each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.

### **33. Waiver**

No express or implied consent to or waiver of, any breach or default by the other party, in the performance of the obligations hereunder, shall be deemed or construed to be a consent to, or waiver of, any other breach or default in the performance by such hereunder. Failure on the part of either party to complain of any act of the other in default, irrespective of how long such failure continues, shall not constitute a waiver of a party's rights hereunder.

### **34. Severability; Survivability; Preparation**

If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of the Agreement shall survive its expiration or earlier termination. This Agreement shall not be construed more strongly against either party regardless of who was more responsible

for its preparation.

### **35. No Third-Party Benefits**

The parties to this Agreement do not intend any provision of this Agreement to create any third-party beneficiaries or to confer any benefit or enforceable right upon anyone other than the parties hereto.

### **36. Sovereign Immunity**

This Agreement shall not be construed as constituting a waiver of any rights to sovereign immunity granted to ECT or the City of Pensacola under the laws or Constitution of the State of Florida. This Agreement shall not be construed as granting or extending the sovereign immunity to which ECT or the City of Pensacola is entitled to any other third-party.

### **37. Notices**

All notices, including changes in the following addresses, required to be given pursuant to this Agreement shall be given by mail, certified or registered, and return receipt requested, or by personal delivery, evidenced by a receipt signed by the recipient of such personal delivery, and shall be effective when deposited in the mail.

If to ECT, address to the Executive Director of the ESCAMBIA CHILDREN'S TRUST, 1000 College Blvd., Suite 1100-H, Pensacola, Florida, 32504.

If to the Provider, address to the Executive Director of CITY OF PENSACOLA, FLORIDA, 222 W. Main Street, Pensacola, Florida 32502.

### **38. Scrutinized Companies**

In compliance with F.S. 287.135(a), a Provider is ineligible to and may not enter into a contract with ECT if the Provider is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 or is engaged in a boycott of Israel. In compliance with F.S. 287.135(b), for contracts of \$1 million or more, a Provider is ineligible to and may not enter into a contract with ECT if the Provider (1) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Section List, created pursuant to s. 215.473 or, (2) is engaged in business operations in Cuba or Syria. By entering into this Agreement, you are certifying that you are eligible to contract with ECT and are not participating in a boycott of Israel, are not on the Scrutinized Companies with Activities in Sudan List, are not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that you do not have business operations in Cuba or Syria. In addition, this Agreement may be terminated if Provider (1) has found to have submitted a false certification, (2) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, (3) has been placed on the Scrutinized Companies with Activities In Sudan

List or the Scrutinized Companies with Activities in The Iran Petroleum Energy Sector List; or (4) has been engaged in business operations in Cuba or Syria.

The Provider agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

The Provider agrees that the certifications in this section shall be effective and relied upon by ECT for the term of this Agreement, including any and all renewals.

The Provider agrees that if it or any of its subcontractors' status changes in regard to any certification herein, the Provider shall immediately notify ECT of the same.

As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

### **39. E-Verify**

In accordance with F. S. 448.095, no later than the first date of the term Agreement, Provider must register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all employees hired on or after the first date of the term Agreement and during the remainder of the term of this Agreement. Evidence may consist of, but is not limited to, providing notice of your E-Verify number. The link for instructions on how to provide proof of participation/E-Verify enrollment is <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>.

The statute also applies to subcontractors performing work under this Agreement. The subcontractor must use the E-Verify system for any employees it may hire during the term of this Agreement. The Subcontractors must provide affidavits stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined by F.S. § 448.095(k). Subcontractors are defined in Florida Statute as both individuals and legal entities. Provider must maintain copies of all subcontractor affidavits for the duration of the ECT Agreement and these affidavits shall be subject at all times to inspection, review, or audit by ECT personnel or its duly authorized agent.

Notwithstanding any other terms of this Agreement, if ECT has a good faith belief that you have knowingly hired, recruited or referred an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, ECT shall terminate this Agreement. Provider may be liable for all costs associated with ECT securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary). Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute, Provider may not be awarded a public contract for a period of one (1) year after the date of termination.

**XVI. SIGNATURES**

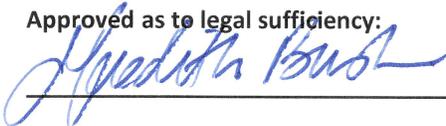
\_\_\_\_\_  
Tammy D. Greer, Executive Director  
Escambia Children's Trust

\_\_\_\_\_  
D.C. Reeves, Mayor  
City of Pensacola, Florida

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Date

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Date

Approved as to legal sufficiency:

  
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