



La Plata County
Colorado

PROCUREMENT DIVISION

1101 EAST SECOND AVE • DURANGO, CO 81301

NOTICE OF AWARD

July 12, 2023

Miriam Morgan
Durango Dance, LLC
3416 Main Ave. Ste. 101
Durango, CO 81301
miriam@durangodance.com

Re: Adoptive and Foster Parent Night Out, Project #23-047-13131

Dear Ms. Morgan:

You are hereby notified that the La Plata County Board of County Commissioners has accepted your bid for the above-referenced project in the amount not to exceed \$10,000 subject to the execution and receipt of the required documentation. Within ten (10) calendar days, please return the following required documentation by email to: Stephen.Iwanicki@co.laplata.co.us.

1. Executed Acceptance of Notice of Award (Page 2 of this Notice of Award);
2. Signed Contract;
3. Certificate of Insurance and/or Endorsements **naming both La Plata County and the Board of County Commissioners of La Plata County, Colorado, as Additional Insureds (see details in Exhibit C);** and,
4. Proof of Workers' Compensation coverage.

If you should have any questions, please do not hesitate to call me at (970) 382-6432.

Sincerely,

Kathryn Hightower
Contract Agent

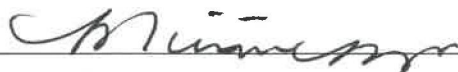
Enclosures: Acceptance of Notice of Award (Page 2)
Contract

Notice of Award
July 12, 2023
Page 2

ACCEPTANCE OF NOTICE OF AWARD
Adoptive and Foster Parent Night Out, Project #23-047-13131

Receipt of the Notice of Award is hereby acknowledged on this 19 day of July, 2023.

By: Miriam Morgan

Signature: 

Title:

Company: Durango Dance, LLC

Please execute and return this form with the required documentation by email to:
Stephen.Iwanicki@co.laplate.co.us.

INDEPENDENT CONTRACTOR AGREEMENT
Adoptive and Foster Parent Night Out, Project #23-047-13131

This Independent Contractor Agreement ("Agreement") is made and entered into this 19th day of July, 2023 between the Board of County Commissioners of La Plata County, Colorado ("County") and Durango Dance, LLC ("Durango Dance") (collectively, the "Parties") under the following terms and conditions:

1. Scope of Work

In accordance with the provisions of this Agreement, and its Exhibits and Attachments, Durango Dance shall perform the services set forth in the Final Scope of Work attached hereto as Exhibit A (hereinafter, "the Services").

2. Term

The term of this agreement shall be from August 01, 2023 until July 31, 2024, unless renewed under the circumstances set forth in Exhibit C to this Agreement.

3. Form of Payment

Payments for the Services rendered pursuant to this Agreement shall not exceed \$10,000 and is subject to the rates set forth in Exhibit B, which is attached to and incorporated into this Agreement. Payment is set at a contract rate for the Services, and is not set as a salary or hourly-employment rate.

4. Primary Contact

The following employee or agent of Durango Dance is hereby designated as the County's primary contact respecting the Services performed under this Agreement, and shall directly supervise or have up-to-date information respecting Durango Dance's provision of the Services.

Miriam Morgan

Anytime Miriam Morgan is not available, Durango Dance's Responsible Officer shall act as primary contact unless and until Durango Dance assigns a replacement, the designation of whom shall be set forth in writing, with that writing attached to this Agreement.

5. Notice

All notices and other communications required or permitted under this Agreement shall be in writing and shall be delivered in person; by certified mail, postage prepaid, return receipt requested; by a commercial overnight courier that guarantees next day delivery and provides a receipt; or by electronic mail. Any such notice shall be effective on the earlier of the time when such notice is actually received or the third day following its deposit in the United States mail

postage pre-paid, addressed to the Primary Contact or to such other address as either party may from time to time specify in writing to the other party.

Notice to the County shall be delivered to:

La Plata County Contract Manager
1101 E. 2nd Ave.
Durango, Colorado 81301

Notice to Durango Dance shall be delivered to:

Miriam Morgan
Durango Dance, LLC
3416 Main Ave. Ste. 101
Durango, CO 81301

6. Insurance

a. Minimum Coverage Requirements

Durango Dance is required to hold throughout this Agreement's initial term, and any and all subsequent terms, insurance policies with the minimum coverage requirements set forth in Exhibit C.

b. Requirement to Maintain Aggregate Coverage Limits

If the aggregate limits of any insurance policy required under this Agreement are reduced below the amounts set forth in Exhibit C, because of claims made or paid during the required policy period, Durango Dance shall immediately obtain additional insurance to restore the full aggregate limit and furnish Certificate(s), Endorsement(s), or other document(s) showing compliance with this provision.

c. Insurance Term and Tail Coverage

If any insurance policy is written on a claims-made basis, Durango Dance warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement, and that continuous coverage will be maintained, or an extend discovery period will be exercised, for a period of five years beginning from the time that Services under this Agreement are completed.

d. Insurance Certificates

Durango Dance shall furnish the County with a Certificate of Insurance for each of the aforementioned insurance policies, along with a copy of the pages containing the Notice of Cancellation provisions, at the commencement of this Agreement and again at every renewal of this Agreement, if any.

e. Failure to Maintain Required Insurance Coverage

Failure on the part of Durango Dance to procure or maintain the aforementioned insurance policies and minimum coverage limits will be a material breach of this Agreement, upon which (notwithstanding any other provision to the contrary) the County may immediately terminate the Agreement.

f. Deductible

Any and all deductibles or self-insured retentions contained in any of Durango Dance's insurance policies required under this Agreement shall be assumed by and be at the sole risk of Durango Dance.

g. Primacy of Coverage

Coverage required of Durango Dance under this Agreement shall be primary over any insurance or self-insurance program carried by the County.

7. Payments Contingent on Continued Availability of Public Funds

Because this Agreement involves the expenditure of public funds, this Agreement is contingent upon the appropriation, budgeting, and availability of such funds for payment. The obligations described herein shall not constitute a general obligation, indebtedness, or multiple year direct or indirect debt, or other financial obligations whatsoever within the meaning of the Colorado Constitution or the laws of the State of Colorado.

8. Independent Contractor Status

Durango Dance is an **independent contractor**, and not an employee of the County or the State of Colorado, and is not subject to County or State of Colorado personnel systems. Durango Dance is engaged in an independent trade, occupation, profession or business and is qualified to perform the Services pursuant to this Agreement. The County shall rely upon Durango Dance expertise, and Durango Dance is free from control and direction by the County in its performance of the Services. The County shall not provide any training to Durango Dance, nor oversee Durango Dance's actual work, nor instruct Durango Dance as to how the work will be performed. Durango Dance is free to provide services to others and is not required to work exclusively for the County. Durango Dance is responsible for providing its own tools and benefits at its own cost. Durango Dance is and shall remain a separate and distinct entity from the County, and the County's business operations shall in no way combine with Durango Dance's business operations. **Durango Dance is not entitled to workers' compensation benefits or unemployment insurance benefits unless paid for by Durango Dance. Durango Dance is obligated to pay federal (including social security) and state income tax on any monies earned pursuant to this Agreement.**

9. Obligation to Comply with Applicable Laws

Durango Dance is responsible for complying with all employment laws and insurance laws relating to its own employees, and shall purchase and provide proof of workers' compensation coverage for all such employees. Durango Dance's workers' compensation insurance coverage shall include a waiver of subrogation in favor of La Plata County.

Durango Dance shall perform the Services in compliance with all applicable federal, state, and local laws, ordinances, regulations, codes, and orders, including but not limited to C.R.S. § 24-34-402. Discriminatory or Unfair Employment Practices; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act (if Durango Dance is a public entity); Title III of the Americans with Disabilities Act (if Durango Dance is a private entity); and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (if Durango Dance is a covered entity as defined at 45 C.F.R. § 160.103), and the Age Discrimination Act of 1975.

Durango Dance shall be responsible for obtaining all licenses and permits necessary to perform the Services, at Durango Dance's expense, unless this Agreement specifically states otherwise.

10. Financial Management

At all times from the commencement date of this Agreement until completion of this Agreement, Durango Dance and all subcontractors shall adhere to accepted principles of generally accepted accounting principles as made applicable to Durango Dance by statute, rule or regulation. Such principles shall include all applicable administrative requirements, cost principles, and accounting principles imposed by federal or state agencies, and any federal or state law, rule, or regulation.

11. Discretionary Audit

Durango Dance shall permit the County, through any of their duly authorized representatives, including an independent Certified Public Accountant of the County's choosing; to inspect, examine, and audit Durango Dance's (and any subcontractor's) records, books, accounts, and other relevant documents relating to this project, and subject to the requirements of federal and state laws governing inspection of records. Such discretionary audit may be requested at any time and for any reason from the effective date of this Agreement until 5 years after the date final payment for this project is received by Durango Dance, or this Agreement's termination, provided that the audit is performed during normal business hours.

12. Conflict of Interest

Durango Dance shall not engage in any business or personal activities or practices, or maintain any relationships, which conflict, or reasonably appear to conflict, in any way with Durango Dance's provision of the Services. If a conflict or the appearance of a conflict exists, or if Durango Dance is uncertain whether a conflict or the appearance of a conflict exists, Durango

Dance shall disclose the actual or apparent conflict to the County in writing, setting forth the relevant details for the County's consideration. Failure to promptly submit a written disclosure or failure to follow the County's direction in light of that disclosure shall be a breach of this Agreement.

13. Indemnification

Durango Dance hereby agrees to indemnify, defend, and hold harmless the County, and its elected officials; departments; agencies; officers; or employees, from all claims; costs and expenses; damages; and liability incurred by any of the above, and from any other damage; cost; and liability to any person or property whatsoever, which is caused by an activity, condition, or event arising out of the negligent performance or non-performance of any provision of this Agreement by Durango Dance, its agents, or independent subcontractors. Indemnification is intended to extend to all such claims, irrespective of whether they are covered by insurance. The County's and its elected officials'; department's; agencies'; employees'; or officers' costs subject to indemnification by Durango Dance shall include court costs, litigation expenses, and reasonable attorney's fees. The indemnification obligations in this section shall survive expiration or other termination of this Agreement.

14. Governmental Immunity

Notwithstanding any other provision of this Agreement to the contrary, the County does not waive, either expressly or impliedly, any protection or immunity provided to it pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq.

15. County's Right to Inspect

County reserves the right to periodically inspect Durango Dance's work performed in the course of providing the Services. If that work is being performed incorrectly, the County may notify Durango Dance of such deficiency and offer Durango Dance an opportunity to correct said work in a timeframe deemed appropriate by the County. Or, if such incorrect work constitutes a substantial breach of this Agreement, County reserves the right to terminate this Agreement immediately upon written notice to Durango Dance.

16. Modification and Amendment

This Agreement may not be amended except as follows:

a. Modification by Operation of Law

This Agreement is subject to such modifications as may be required by changes in federal or state law or regulations. Any such required modification shall be incorporated into and become part of this Agreement, as if fully set forth herein.

b. Programmatic or Budgetary Modifications.

No programmatic or budgetary modifications that may affect the Services shall be made by Durango Dance without the County's written authorization, after a written request by Durango Dance. The County may withhold such authorization in its discretion.

c. Other Modifications.

If either the County or Durango Dance desire to modify the terms of this Agreement other than set as forth in Subparagraphs 16(a) or (b) above, written notice of the proposed modification shall be given to the other party. No such modification shall take effect unless agreed to in writing by both parties in an amendment to this Agreement properly executed and approved in accordance with applicable law.

17. Ownership of Works

a. Definition

As used herein, the term "Works" shall mean all deliverables provided pursuant to this Agreement, including, but not limited to, all documents, reports, designs, drawings, software, inventions, prototypes, discoveries, systems, cost estimates, specifications, writings, or other data that are conceived, produced, developed, and/or created by Durango Dance or jointly by Durango Dance and County, in connection with the Services, as well as all copyright and patent rights, including refinements and improvements, to such Works.

b. County's Exclusive Ownership of Works

Durango Dance agrees that County shall own exclusively all rights and interests in all Works, and Durango Dance hereby warrants, conveys and assigns full, unencumbered title to all Works. Durango Dance shall execute and deliver any documents that may be required to transfer ownership of the Works to County. At any time during or after the term of this Agreement, Durango Dance will not use or seek to use any of the Works for its own benefit or for the benefit of any other person or business or in any way adverse to County's interests. Upon the termination of this Agreement, or at any other time upon request by County, Durango Dance shall promptly deliver all Works to County.

18. Colorado Open Records Act and Subpoenas to Produce Records

This Agreement and all documentation related to it, including but not limited to Durango Dance's bid or proposal, may be subject to the Colorado Open Records Act, C.R.S. § 24-72-201 et seq., as amended ("CORA"). The County may also become obligated to comply with a subpoena to produce records served by any court or administrative agency. Durango Dance hereby agrees to designate "confidential" any information Durango Dance desires to withhold from disclosure pursuant to CORA or a subpoena. Notwithstanding any other provision in this contract to the contrary, Durango Dance agrees to indemnify, defend, save, and hold the County harmless from all costs, damages, and liabilities, including but not limited to court costs,

expenses, and reasonable attorney's fees, that arise out of the County's non-disclosure or declination to produce information marked confidential or proprietary, or otherwise redacted by you pursuant to C.R.S. § 24-72-204(3)(a)(IV), as amended.

19. Obligation to Keep Information Confidential

During the term of this Agreement, Durango Dance may be provided or come into possession of confidential information or disclosures, including but not necessarily limited to the legal opinions of the County's legal counsel or the opinions of public officials expressed during a properly convened executive session of the Board of County Commissioners. Such confidential information and other information not otherwise subject to disclosure to the public under the Colorado Open Records Act, C.R.S. § 24-72-101 et seq., obtained by Durango Dance during this Agreement's terms, shall not be disclosed, taken, or misused by any reason by Durango Dance or any of its agents or subcontractors.

Further, if Durango Dance maintains, stores, processes or has access to "personal information," as defined below, in providing the Services specified in this Agreement to the County, Durango Dance agrees that it shall guard such personal information from unauthorized access, use, modification, disclosure or destruction, pursuant to C.R.S. § 24-73-102, as amended. Durango Dance shall implement and maintain reasonable security procedures and practices appropriate to the nature of the personal information and size of Durango Dance business.

Durango Dance further agrees to destroy such personal information by shredding, erasing or otherwise modifying the personal information in paper or electronic documents to make the information unreadable or indecipherable through any means once the Agreement terminates, unless a different timeframe is otherwise agreed to by the parties and set forth herein.

Durango Dance shall notify the County within three (3) business days of any security breach or other unauthorized acquisition of personal information that compromises the security, confidentiality, or integrity of such personal information. Good faith acquisition of personal information by Durango Dance employees in performance of the Services specified in this Agreement is not a security breach; provided, that the information is not used for any other purpose or subject to further disclosure. In the case of any breach or unauthorized access, Durango Dance shall cooperate with the County to provide information to affected persons and other third-parties, as required by this Agreement or C.R.S. § 24-73-103, as amended, and shall be solely responsible for any cost and expense related to notification. Durango Dance shall indemnify, defend and hold harmless the County for any claims, costs and expenses, damages and liability to any person or property whatsoever, based on a breach of Durango Dance security or other unauthorized access of personal information, as set forth in Section 14 of this Agreement.

a. Personal Information Defined

For purposes of this Agreement, "personal information" means the following: social security number; personal identification number; password; passcode; official state or government-issued driver's license or identification card number; government passport number; employer, student or military identification number; health insurance

identification number; financial transaction device (i.e., any instrument or device whether known as a credit card, banking card, debit card, electronic fund transfer card, or guaranteed check card, or account number representing a financial account or affecting the financial interest, standing, or obligation of or to the account holder, that can be used to obtain cash, goods, property, or services or to make financial payments, but shall not include a “check”, a “negotiable order of withdrawal”, and a “share draft” as defined in C.R.S. § 18-5-205, as amended); biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating an individual when s/he accesses online accounts; or any information about a person’s medical or mental health treatment or diagnosis by a health care professional.

20. Remedies

In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the County, upon written notice to Durango Dance, may exercise immediately the following remedial actions if Durango Dance substantially fails to provide the Services as agreed herein:

a. Suspension

The County may suspend this Agreement, and withhold further payments, and/or prohibit Durango Dance from incurring additional obligations of contractual funds, pending corrective action by Durango Dance or a decision to terminate in accord with the provisions herein. Suspension shall not entitle Durango Dance to an increase in price or cost, or to an extension of the Agreement’s term.

b. Withhold Payment

The County may withhold payment to Durango Dance until the necessary services or corrections in performance are completed to the County’s reasonable satisfaction.

c. Deny Payment

The County may deny payment for those services Durango Dance has not satisfactorily performed or which, if performed would be of no value to the County due to circumstances caused by Durango Dance.

21. Termination

This Agreement may be terminated as follows:

a. Termination Due to Loss of Funding

The parties hereto expressly recognize that the Durango Dance is to be paid, reimbursed, or otherwise compensated with funds assessed by or provided to the County for the purpose of contracting for the services provided for herein, and therefore, the Durango Dance expressly

understands and agrees that all its rights, demands and claims to compensation arising under this Agreement are contingent upon the availability of such funds to the County. In the event that such funds or any part thereof are not received by the County, the County or the Durango Dance may immediately terminate this Agreement.

b. Termination for Cause

If, through any cause, Durango Dance shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if Durango Dance shall violate any provision of this Agreement, the County shall thereupon have the right to terminate the Agreement for cause by giving at least 5 days' written notice to Durango Dance specifying the breach of Agreement. In the event Durango Dance shall fail to cure such breach within 5 days of receipt of such notice, or if it is not possible to fully cure the breach within said time period, commence cure and diligently pursue the same, then this Agreement may be terminated. If the County fails to perform any obligation under this Agreement, Durango Dance may provide the County with a written notice of said breach. If the County fails to cure said breach within 30 days of its receipt of written notice of its breach, Durango Dance may terminate this Agreement by written notice to the County.

c. Immediate Termination to Preserve Public Safety

Notwithstanding any provision to the contrary herein, the County may immediately terminate this Agreement without advance notice or a cure period, if the County, in its sole discretion, determines immediate termination is necessary to preserve public safety.

d. Termination for Convenience

The County may terminate this Agreement at any time, without cause and for any reason including the County's convenience, upon written notice to Durango Dance.

e. Contractor's Continued Liability

Durango Dance shall not be relieved of liability to the County for any damages sustained by the County by virtue of any breach of this Agreement by Durango Dance, and the County may withhold any payments to Durango Dance for the purpose of setoff until such time as the exact amount of damages is determined.

f. Payment Upon Termination

The County shall compensate Durango Dance for all services which were performed and accepted through the date of termination, which are determined to have been within the Scope of Services, less any damages to the County as may be determined.

22. Attorney Fees

Should the County or Durango Dance initiate legal action to enforce this Agreement, the prevailing party shall have the right to collect from the other party its reasonable attorney fees and costs incurred in pursuing that action.

23. Subcontractors

All agreements between Durango Dance and any subcontractors shall contain sufficient terms to insure subcontractor's compliance with all provisions of this Agreement. All agreements between Durango Dance and any subcontractors shall specifically note that the County is a third party beneficiary to each agreement, and that the County may enforce each agreement's terms.

24. Force Majeure

Neither Durango Dance nor the County shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes, and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed Party.

25. Entire Agreement

This Agreement is the entire agreement between the Parties. This Agreement's final form resulted from review and negotiations among the Parties, and no part of this Agreement shall be construed against either Party on the basis of authorship. Any and all prior or contemporaneous statements or understandings not contained herein shall be of no force and effect.

26. Assignment or Transfer

This Agreement is one for personal Services and as such, may not be assigned or delegated, by either Party, in any manner, without the express prior written consent of the other Party.

27. Execution

This Agreement may be signed in any number of counterparts, which taken together form one single document. An original facsimile signature to this Agreement or amendments hereto will be considered as an original.

28. Severability

The terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof, to the extent the Parties' obligations under this Agreement may be accomplished within the Agreement's intent.

29. Survival of Certain Provisions

Notwithstanding any provision herein to the contrary, any provision of this Agreement requiring continued performance shall survive this Agreement's termination and shall be enforceable by the County if Durango Dance fails to perform as required.

30. Conflict Between Agreement and Exhibits

In the event of any conflict between any provision of this Agreement and any provision of any Exhibit hereto, the provisions of this Agreement shall control.

31. Governing Law

The terms and conditions of this Agreement shall be construed, interpreted, and enforced in accordance with the applicable laws of the State of Colorado. If any legal action is necessary to enforce the terms and conditions of this Agreement, the Parties agree that the jurisdiction and venue for bringing such action shall be in the appropriate court in La Plata County, Colorado.

The following Exhibits and/or Attachments are incorporated into and made part of this Agreement as if fully set forth herein:

- Exhibit A: Final Scope of Work
- Exhibit B: Statement of Rates and Payment Schedule
- Exhibit C: Special Provisions
- Exhibit D: Business Associate Protected Health Information Disclosure Agreement

In Witness Whereof, the Parties hereto have set their hands and seals on this 20 day of July, 2023

Durango Dance, LLC

La Plata County
Board of County Commissioners

By: Miriam Morgan
Miriam Morgan,

By: Kathy Hylton
Contract Agent

STATE OF Colorado
COUNTY OF La Plata) ss.

Stephen Joseph Iwanicki Jr
Notary Public
State of Colorado
Notary ID 20204040970
MY COMMISSION EXPIRES 11/20/2024

Stephen Joseph Iwanicki Jr
Notary Public
State of Colorado
Notary ID 20204040970
MY COMMISSION EXPIRES 11/20/2024

Signed before me on July 20, 2023, by Miriam Morgan, as owner (title) of Durango Dance (contractor name).

WITNESS MY HAND AND SEAL:

My commission expires: 11/20/2024

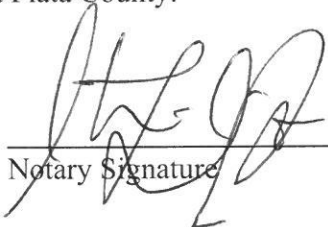

Notary Signature

STATE OF COLORADO)
COUNTY OF LA PLATA) ss

Signed before me on July 20, 2023, by Kathryn Hightower, as Contract Agent (title) of La Plata County.

WITNESS MY HAND AND SEAL:

My commission expires: 11/20/2024


Notary Signature

INDEPENDENT CONTRACTOR AGREEMENT
Adoptive and Foster Parent Night Out, Project #23-047-13131

Exhibit A - Final Scope of Work

Contractor shall:

- Furnish supplies and childcare for infants/children/youth, from birth to age 18, for eleven (11) “Adoptive and Foster Parent Night Out” events, at Durango Dance, 3416 Main Avenue Ste. 101, Durango, CO 81301 or other locations along North Main Ave. (Durango Recreation Center , and/or Animas City Park).
- Have up to twenty (20) participants with a maximum of the following infant/child/teen to adult ratio supervision: 2:1, babies in arms (newborn to 18 months old); 6:1, 18 months to 12 years old; 2 adults for three or more teens (13 to 18 years of age), on any given night.
- Obtain advance approval for any increase in childcare staff from the Human Services staff member who is coordinating Parent Night Out (PNO). This case-by-case consideration is based on any children who have special needs and require a higher level of supervision for their safety and the safety of other children, and will require a staff-to-child ratio of 1:1 for the child if approved.
- Ensure that all childcare staff passes pre-employment background checks including criminal history checks, which will be coordinated and paid for by the Contractor. The Contractor agrees to complete “Clear Checks” on all employees, and will provide potential employee names to La Plata County Department of Human Services (LPCDHS) for a Colorado Trails check. These checks shall be completed prior to any staff being employed for PNO events.
- Provide organized activities and a meal for the children.
- Provide childcare for five (5) hours, 2:30 PM to 7:30 PM, on one Saturday night each month that a PNO event is scheduled. There are eleven (11) PNO events between August 2023 and July 2024; there will be no event in May 2024.
- Serve an average of six (6) families and twenty (20) children per event.
- Ensure that any safety issues that occur are immediately called into the Colorado Hotline on-call staff and that the child’s parents/caregivers are notified in a timely manner. LPCDHS needs notification immediately by calling the 24/7 Colorado Hotline: 1-844-264-5437 and requesting to speak to the on-call worker for LPCDHS.
- Inform the LPCDHS program coordinator in a timely manner of any concerns or problems that arise.
- Provide an email summary to LPCDHS staff of the evening’s events and report how the evening went, no later than the following Monday.
- Provide an invoice to LPCDHS on a monthly basis, submitting each invoice no later than the 20th day of the following month. Invoices received later than these dates may not be paid.
 - Contractor will submit invoices to LPCDHS for services rendered within sixty (60) days of the date(s) of service. The submitted invoice will include the specific days and times service was provided under the Agreement.
 - The invoice will include total numbers of staff present, along with hourly rate and

total hours worked; and a cost of activities and snacks for the night's event. Contractor will retain all backup documentation to support these costs for a minimum of three years.

LPCDHS shall:

- Inform adoptive and foster parents of this opportunity and coordinate attendance on a monthly basis.
- Communicate with the Contractor no later than the Thursday preceding the Saturday that has a scheduled event regarding the number and ages of children who will be in attendance.
- Document any approvals for increased childcare staff, including which child or children will receive increased supervision and why.
- Ensure that the Contractor has the 24/7 Colorado Hotline number for the on-call LPCDHS employee to be reached in case of emergency.
- Inform the Contractor in a timely manner of any concerns or problems that arise.
- Review and approve invoices within one week of receipt.

Additional requirements for both LPCDHS and the Contractor:

1. LPCDHS cannot prepay for services.
2. LPCDHS cannot pay for missed or canceled appointments.
3. LPCDHS can only pay for services that have occurred.
4. LPCDHS cannot pay for mileage.
5. LPCDHS must receive an invoice from the Contractor within sixty (60) days of service or the County may not be able to pay.
6. LPCDHS must receive all documentation and reports (if required) before an invoice can be paid.
7. If another entity subpoenas the Contractor, then LPCDHS will not pay for preparation time and testimony.
8. LPCDHS cannot start paying for services until the Agreement is executed.
9. Contractor will not provide transportation for any County client.
10. Contractor must provide all documentation and reports (if required) to LPCDHS before an invoice can be paid.
11. Contractor agrees that activities conducted with funding obtained through this Agreement shall be non-sectarian in nature and that religious language, actions, or activities shall not be included in any activities to be conducted as part of this Agreement.

INDEPENDENT CONTRACTOR AGREEMENT
Adoptive and Foster Parent Night Out, Project #23-047-13131

Exhibit B — Statement of Rates and Payment Schedule

Payments for Services rendered pursuant to this Agreement shall not exceed \$10,000 at the rates set forth in Contractor's bid/proposal. Payment is set at a contract rate for the work and is not set as a salary or hourly-employment rate. Payments shall be made by checks payable to the trade or business name of Contractor and not to any individual. Such payments are to be made on a monthly basis for Services rendered subject to Contractor providing County with an itemized statement of Services provided pursuant to this Agreement. If this Agreement is terminated, County shall compensate Contractor for all Services rendered to the date of termination pursuant to this Agreement pursuant to County payment policies.

Contractor Rates per PNO event:

- Staff - \$20/hour
- Lead Staff - \$200/PNO event
- Food - \$8/person

INDEPENDENT CONTRACTOR AGREEMENT
Adoptive and Foster Parent Night Out, Project #23-047-13131

Exhibit C — Special Provisions

This Exhibit C and each Special Provision below is incorporated into and made part of the Agreement to which they are appended, as if fully set forth therein.

C1. Renewal

Subject to continued availability and appropriation of public funds for payment of the County's obligations under this Agreement, this Agreement may be renewed for two additional one-year terms upon written notice from the County. The bid prices, including any annual adjustments as stated herein, shall remain in effect for this and subsequent terms. Renewal shall be contingent on additional funding being appropriated, budgeted, and otherwise made available for such purposes, subject to the County's satisfaction with the Services received during each preceding term.

C2. Minimum Insurance Coverage Requirements

a. Commercial General Liability

\$1,000,000 / occurrence

b. Automobile Liability

\$1,000,000 / occurrence

C3. County as Additional Insured on Commercial General Liability Policy

Respecting the Commercial General Liability Policy Durango Dance is required to obtain under this Agreement, Durango Dance shall name as Additional Insureds both La Plata County and the La Plata County Board of County Commissioners.

C4. Subrogation Waiver

The following insurance policies required of Durango Dance under this Agreement shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against the County:

Commercial General Liability Policy

C5. Additional Persons Authorized to Audit

In addition to the County and any of its duly authorized representatives Durango Dance shall permit the following public or private entities or persons to conduct the discretionary audit described in paragraph 12 of this Agreement:

[RubinBrown, LLC]

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INDEPENDENT CONTRACTOR AGREEMENT
Adoptive and Foster Parent Night Out, Project #23-047-13131

Exhibit D — Business Associate Protected Health Information Disclosure Agreement

This Business Associate Protected Health Information Disclosure Agreement (this “Agreement”) is entered into effective as of August 01, 2023 (“Effective Date”), by and between La Plata County (“Covered County”), and Durango Dance, LLC (“Business Associate” or “Associate”).

RECITALS

WHEREAS, Business Associate has entered into an Independent Contractor Agreement with Covered County as of August 01, 2023 for Adoptive and Foster Parent Night Out Project (together with exhibits, amendments, modifications, extensions and similar agreements, the “Services Agreement”). This Agreement shall be incorporated into and considered part of the Services Agreement upon its execution;

WHEREAS, Covered County is a covered entity as defined in 45 Code of Federal Regulations § 160.103 and is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the American Recovery and Reinvestment Act of 2009 (“HIPAA”), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Protected Health Information codified at 45 Code of Federal Regulations Parts 160, 162 and 164 (the “Privacy Regulations”) (All regulatory references herein are to Chapter 45 of the Code of Federal Regulations.);

WHEREAS, pursuant to the Services Agreement, Business Associate is a business associate as defined under HIPAA and Business Associate shall provide Services to Covered County, and receive from, have access to, create, maintain or transmit Protected Health Information (“PHI”) on behalf of, Covered County in order to provide those Services; and,

WHEREAS, the Privacy Regulations require Covered County to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and the Privacy Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1 Definitions.

1.1 “Business Associate” shall have the same meaning as the term is defined at 45 CFR § 160.103.

1.2 “Covered Entity” shall generally have the same meaning as the term is defined at 45 CFR § 160.130, and in reference to this Agreement, shall mean the Covered County.

1.3 “Designated Record Set” means a group of records maintained by or for Covered County that is: (i) the medical records and billing records about individuals maintained by or for Covered County; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for Covered County; or (iii) used, in whole or in part, by or for Covered County to make decisions about individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for Covered County.

1.4 “Disclose” and “Disclosure” mean the release, transfer, provision of access to, or divulging in any other manner of information outside of the entity holding the information.

1.5 “Electronic Media” means (i) electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or, (ii) transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form before the transmission.

1.6 “Health Information” means any information, including genetic information, whether oral or recorded in any form or medium, that (i) is created or received by Covered County, and (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

1.7 “HITECH Act” shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, 42 U.S.C. §§ 17921-17954, and all its implementing regulations, when and as each is effective and compliance is required.

1.8 “Individual” means the person who is the subject of Protected Health Information, and includes a person who qualifies as a personal representative as set forth in 45 CFR § 164.502(g).

1.9 “Individually Identifiable Health Information” means information that is a subset of Health Information, including demographic information collected from an individual and that (i) is created or received by Covered County, and (ii) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (A) that identifies the individual, or (B) with respect to which there is a reasonable basis for believing that the information can be used to identify the individual.

1.10 “Protected Health Information” or “PHI” means Individually Identifiable Health Information that is (i) transmitted by Electronic Media; (ii) maintained in Electronic Media; or, (iii) transmitted or maintained in any other form or medium, but excludes Individually Identifiable Health Information contained in (i) education records covered by the Family Educational Rights and Privacy Act (ii) records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and, (iii) employment records held by Covered County in its role as an employer.

1.11 “Services” means all services to be provided by Business Associate to Covered County or its customers pursuant to the Services Agreement.

1.12 “Subcontractor” means a third party to whom Business Associate delegates a function, activity, or service that involves PHI received, created, or accessed pursuant to the Services Agreement, in order to carry out the responsibilities of the Services Agreement.

1.13 “Use” or “Uses” mean, with respect to Individually Identifiable Health Information, the sharing, employment, application, utilization, examination or analysis of such information within Covered County or Business Associate’s operations.

1.14 Terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in HIPAA or the Privacy Regulations. If any conflict between the mandatory provisions of the Privacy Regulations and the provisions of this Agreement, the Privacy Regulations shall control. Where the provisions of this Agreement differ from those mandated by the Privacy Regulations, but are nonetheless permitted by the Privacy Regulations, the provisions of this Agreement shall control.

2 Obligations and Activities of Business Associate Relating to HIPAA.

2.1 Use and Disclosure. Business Associate shall not Use or Disclose any Protected Health Information in a manner other than as permitted by the terms of this Agreement, the Services Agreement or as required by law. To the extent Business Associate is to carry out Covered County’s obligations under the Privacy Regulations, Business Associate shall comply with the requirements of the Privacy Regulations that apply to the Covered County in the performance of such obligations. Business Associate accepts full responsibility for any penalties incurred as a result of Business Associate’s breach of the Privacy Regulations.

2.2 Adequate Safeguards for Protected Health Information. Business Associate shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement, and shall comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information. Business Associate shall review, modify, and update documentation of, its safeguards as needed to ensure continued provision of reasonable and appropriate protection of Protected Health Information.

2.3 Reporting Non-Permitted Use or Disclosure. During the term of this Agreement, Business Associate shall report to Covered County within two (2) business days any Use or Disclosure of Protected Health Information in its possession of which it becomes aware that is

not permitted by the terms of this Agreement, the Services Agreement or as required by law, including breaches of unsecured protected health information as required by 45 CFR 164.410, and any other security incident of which it becomes aware. Information provided to Covered County shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during the breach.

2.4 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate shall keep records and make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information received from, or created by Business Associate on behalf of, Covered County available to the Secretary of the U.S. Department of Health and Human Services, in a time and manner designated by the Secretary, for purposes of determining Covered County's compliance with the Privacy Regulations. Business Associate shall provide to Covered County a copy of any Protected Health Information that Business Associate provides to the Secretary concurrently with providing such Protected Health Information to the Secretary when the Secretary is investigating Covered County.

2.5 Use by Subcontractors and Agents. Business Associate shall require all of its agents and Subcontractors that create, receive, maintain, and/or transmit Protected Health Information received from, or created or received by Business Associate on behalf of Covered County to agree, in writing, to the same restrictions and conditions that apply to Business Associate with respect to the use and/or disclosure of such information, including but not limited to the extent Business Associate provides electronic Protected Health Information to a Subcontractor or agent, it shall require the Subcontractor or agent to implement reasonable and appropriate safeguards to protect such information consistent with this Agreement or as required by law. Each Subcontractor or agent shall sign an agreement with Business Associate containing the same provisions as this Agreement and further identifying Covered County as a third party beneficiary with rights of enforcement and indemnification from such Subcontractor or agent in the event of any violation of such agreement. Business Associate shall implement and maintain sanctions against agents and Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

2.6 Access to Protected Health Information. In accordance with 45 CFR § 164.524 and upon Covered County's written request, Business Associate will make available to Covered County or, at Covered County's direction, to the individual (or the individual's personal representative), for inspection and obtaining copies of any Protected Health Information about the individual requesting access to Protected Health Information that Business Associate created for or received from Covered County that is in a Designated Record Set, for as long as such Protected Health Information is maintained in a Designated Record Set, in Business Associate's custody or control, so that Covered County may meet its obligations to provide access to Protected Health Information under § 164.524. In no event shall such access be provided later than ten (10) business days following receipt of Covered County's written request, unless otherwise agreed to by Covered County and Business Associate. If such Protected Health Information is maintained by Business Associate in an electronic form or format, Business Associate must make such Protected Health Information available to Covered County in a mutually agreed upon electronic form or format.

2.7 Amendment to Protected Health Information. Business Associate will, upon receipt of written notice from Covered County, promptly amend, or provide Covered County access to amend within five (5) business days of receipt of a request, any portion of Protected Health Information about the individual requesting the amendment that Business Associate created for or received from Covered County that is in a Designated Record Set for as long as such Protected Health Information is maintained in the Designated Record Set, so that Covered County may meet its amendment obligations under 45 CFR § 164.526. If any individual requests an amendment of Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate must notify Covered County in writing within two (2) business days of receipt of the request. Business Associate shall not disclose any Protected Health Information except as set forth in Section 2.1 of this Agreement.

2.8 Accounting of Disclosures. Upon Covered County's written request, Business Associate shall provide to Covered County within ten (10) business days of receiving the written request an accounting of each Disclosure of Protected Health Information made by Business Associate in accordance with 45 CFR § 164.528. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall track the information specified in (a) through (d), below, and shall securely maintain the information for six (6) years from the date of the Disclosure or the end of the Agreement, whichever is longer. Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received Protected Health Information; (c) a brief description of Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. If the Business Associate maintains Protected Health Information in electronic format, it shall account for all disclosures for at least a three (3) year period. In the event that the request for an accounting is delivered directly to Business Associate or its agents or Subcontractors, Business Associate shall within two (2) business days of the receipt of the request forward it to Covered Entity in writing. Business Associate shall not disclose any Protected Health Information except as set forth in Section 2.1 of this Agreement.

2.9 Minimum Necessary. Business Associate (and its agents or Subcontractors) shall only request, use and disclose the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure, in accordance with the Minimum Necessary requirements of the Privacy Regulations including, but not limited to 45 C.F.R. Sections 164.502(b) and 164.514(d).

2.10 Audits, Inspection and Enforcement. Within ten (10) business days of a written request by Covered County, Business Associate and its agents or Subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Health Information pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Agreement; provided, however, that: (i) Business Associate and Covered County shall mutually agree in advance upon the scope, timing and location of such an inspection; and (ii) Covered County shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered County has access during the course of such inspection. The fact that Covered County inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and

procedures does not relieve Business Associate of its responsibility to comply with this Agreement, nor does Covered County's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of enforcement rights under the Services Agreement.

2.11 Safeguards during Transmission. Business Associate shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Health Information transmitted pursuant to the Services Agreement, in accordance with the standards and requirements of the Privacy Regulations.

2.12 Restrictions and Confidential Communications. Within ten (10) business days of notice by Covered County of a restriction upon uses or disclosures or request for confidential communications pursuant to 45 C.F.R. Section 164.522, Business Associate will restrict the use or disclosure of an individual's Protected Health Information.

2.13 Remuneration. Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information as prohibited by 45 CFR § 164.502(a)(5)(ii).

2.14 Communication. Business Associate shall not make or cause to be made any communication about a product or service that is prohibited by 45 CFR §§ 164.501 and 164.508(a)(3).

2.15 Fundraising. Business Associate shall not make or cause to be made any written fundraising communication that is prohibited by 45 CFR § 164.514(f).

2.16 Individual Requests. Business Associate shall take all necessary steps, at the request of Covered County, to comply with requests by Individuals not to send Protected Health Information to a Health Plan in accordance with 45 CFR § 164.522(a)

2.17 HITECH Act. Business Associate hereby acknowledges that has obligations under the HITECH Act and agrees that it shall abide by such obligations and any related requirements.

2.18 Insurance. Business Associate shall maintain insurance to cover loss of PHI data and claims based upon alleged violations of privacy rights through improper use or disclosure of PHI. All such policies shall meet or exceed the minimum insurance requirements of the Services Agreement (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status and notice of cancellation).

3 Permitted Uses and Disclosures of Protected Health Information by Business Associate.

3.1 Except as otherwise limited by this Agreement, Business Associate may use Protected Health Information received by Business Associate from Covered County pursuant to this Agreement, if necessary:

- (a) To fulfill the requirements of the Service Agreement with the Covered County;
- (b) For the proper management and administration of Business Associate; or
- (c) To carry out the legal responsibilities of Business Associate.

3.2 Except as otherwise limited by this Agreement, Business Associate may disclose Protected Health Information received by Business Associate from Covered County pursuant to this Agreement upon request and for the purposes set forth in Section 3.1 above if:

- (a) The Disclosure is required by law; or
- (b)(i) Business Associate obtains reasonable written assurances from the person to whom Protected Health Information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes of which it was disclosed to the person; and
- (ii) The person notifies Business Associate in writing of any instances of which it is aware in which the confidentiality of Protected Health Information has been breached.

4 Obligations of Covered County.

4.1 Covered County shall provide Business Associate with the notice of privacy practices for Protected Health Information that Covered County produces as required under HIPAA, as well as any changes to such notice.

4.2 Covered County shall provide Business Associate with any changes in, or revocation of, permission by individuals to use or disclose Protected Health Information about them, if such changes affect Business Associate's permitted or required uses and disclosures.

4.3 Covered County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered County has agreed to in accordance with § 164.522, to the extent that such restrictions may affect Business Associate's use or disclosure of Protected Health Information.

4.4 Covered County shall notify Business Associate of any laws or regulations applicable to Covered County with which Business Associate must comply in fulfilling Business Associate's obligations under this Agreement.

5 Term and Termination.

5.1 The term of this Agreement shall be the same as the term of the Services Agreement, unless earlier terminated irrespective of the Services Agreement.

5.2 In addition to any other provision of the Services Agreement regarding breach, any breach of a provision of this Agreement by Business Associate shall constitute a material breach of the Services Agreement and is grounds for immediate termination of the Services Agreement by Covered County, pursuant to the provisions regarding termination for cause, if any.

5.3 Effect of Termination.

5.3.1 Except as provided in subsection 5.3.2, upon termination of the Services Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information that Business Associate or its agents or Subcontractors still maintain in any form, and shall retain no copies of such Protected Health Information. If Business Associate elects to destroy the PHI, Business Associate shall certify in writing to Covered County that such PHI has been destroyed.

5.3.2 If Business Associate believes that returning or destroying the Protected Health Information is not feasible, Business Associate shall promptly provide Covered Entity notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Sections 2.1 through 2.11 of this Agreement to such Protected Health Information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6 Miscellaneous.

6.1 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

6.2 Injunctive Relief. Covered County shall have the right to injunctive and other equitable and legal relief against Business Associate or any of its Subcontractors or agents for any Use of Disclosure of PHI in violation of the Services Agreement, this Agreement or applicable law.

6.3 No Waiver of Immunity. No term or condition of the Services Agreement or this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now in effect or hereafter amended.

6.4 Limitation of Liability. Any limitation of Business Associate's liability in the Services Agreement shall be inapplicable to the terms and conditions of this Agreement.

6.5 Disclaimer. Covered County makes no warranty or representation that compliance by Business Associate with this Agreement or the Privacy Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

6.6 Amendments. No amendment shall be effective unless in writing and executed and dated by the parties hereto. The Parties agree to take such action as is necessary to amend this Agreement from time to time as necessary for Covered County to comply with the requirements of the Privacy Regulations and HIPAA.

6.7 Notices. All notices pursuant to this Agreement shall be sent, and deemed received, as set forth in the Services Agreement.

6.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

6.9 Regulatory References. A reference in this Agreement to a section in the Privacy Regulations means the section in effect or as amended.

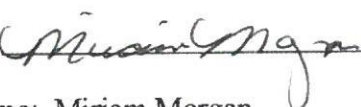
6.10 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered County to comply with the Privacy Regulations and HIPAA.

6.11 Interpretation and Order of Precedence. The provisions of this Agreement shall prevail over any provisions of the Services Agreement that conflict or are inconsistent with this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first stated above.

Business Associate:

Durango Dance, LLC

By: 

Name: Miriam Morgan

Title: owner

Covered County:

La Plata County Government

By: 

Name: Kathryn Hightower

Title: Contract Agent