DISTRICT COURT,CITY and COUNTY OF DENVER STATE OF COLORADO 1437 Bannock Street Denver, Colorado 80523	
JANE E. NORTON, Plaintiff, v. ROCKY MOUNTAIN PLANNED PARENTHOOD, INC. a/k/a PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, INC., a Colorado nonprofit corporation, JOHN W. HICKENLOOPER, in his official capacity as Governor of the State of Colorado; SUSAN E. BIRCH, in her official capacity as Executive Director of the Colorado Department of Health Care Policy and Financing; and LARRY WOLK, in his official capacity as Executive Dir. of the Colorado Department of Public Health & Environment, Defendants.	▲ COURT USE ONLY ▲
Attorneys for Plaintiff: Barry K. Arrington, No. 16486 ARRINGTON LAW FIRM 7340 East Caley Ave., Suite 360 Centennial, Colorado 80111 (O) 303-205-7870 (F) 303-463-0410 E-mail: barry@arringtonpc.com Natalie L. Decker, No. 28596 The Law Office of Natalie L. Decker, LLC 26 W. Dry Creek Cr., Suite 600 Littleton, Colorado 80120 (O) 303-730-3009 (F) 303-484-5631 E-mail: natalie@denverlawsolutions.com Michael J. Norton, No. 6430 ALLIANCE DEFENDING FREEDOM 7951 E. Maplewood Ave., Suite 100 Greenwood Village, CO 80111 (O) 720-689-2410 (F) 303-694-0703 mjnorton@alliancedefendingfreedom.org	Case Number: Courtroom:

VERIFIED COMPLAINT

Plaintiff JANE E. NORTON, by and through her undersigned attorneys, for her Verified Complaint against the Defendants above-named, states as follows:

I. PARTIES

1. Plaintiff Jane E. Norton ("Ms. Norton") is an individual who resides in the County of Arapahoe, State of Colorado. Ms. Norton's business address is P.O. Box 3008, Greenwood Village, CO 80155. Ms. Norton is a resident of Colorado, a Colorado taxpayer, and has a legally protected interest in ensuring that public funds are not expended in violation of the Colorado Constitution and, in particular, Article V, Section 50 of the Colorado Constitution (herein "Colorado's Abortion Funding Prohibition Amendment"). Ms. Norton has therefore suffered injury in fact as a result of the unlawful and unconstitutional expenditures of public funds by the Colorado Government Defendants as described herein in violation of Colorado's Abortion Funding Prohibition Amendment.

2. Defendant Rocky Mountain Planned Parenthood, Inc., a/k/a Planned Parenthood of the Rocky Mountains, Inc. ("Defendant Rocky Mountain Planned Parenthood") is, upon information and belief, a Colorado nonprofit corporation formed on October 20, 1988 and has its principal office at 7155 East 38th Avenue, Denver, Colorado 80207.

3. Defendant John W. Hickenlooper ("Governor Hickenlooper") is an individual and serves as Governor of the State of Colorado. Governor Hickenlooper's office address is 136 State Capitol, Denver, Colorado 80203. Among other duties as Governor of the State of Colorado, Governor Hickenlooper is required to "take care that the laws [of the State of Colorado] be faithfully executed" and, in particular, that Colorado's Abortion Funding Prohibition Amendment has been and is being complied with. Colorado Constitution, Art. IV, § 2. *See also Anderson v. Lamm,* 195 Colo. 437, 579 P.2d 620 (1978). This action is brought against Governor Hickenlooper in his official capacity as Governor of the State of Colorado.

4. Defendant Susan E. Birch ("Director Birch") is an individual and, having been appointed by Governor Hickenlooper, serves as Executive Director of the Colorado Department of Health Care Policy and Financing ("CDHCPF"). Director Birch's office address is 1570 Grant Street, Denver, Colorado 80203. Director Birch, as Executive Director of CDHCPF, has, under the authority of Governor Hickenlooper, the concomitant duty to take care that the laws of the State of Colorado are faithfully executed and, in particular, that Colorado's Abortion Funding Prohibition Amendment has been and is being complied with. *See* C.R.S. § 24-1-119.5. This action is brought against Director Birch in her official capacity as Executive Director of CDHCPF.

5. Defendant Larry Wolk ("Director Wolk") is an individual and, having been appointed by Governor Hickenlooper, serves as Executive Director of the Colorado Department of Public Health and Environment ("CDPHE"). Director Wolk's office address is 4300 Cherry Creek Drive South, Denver, Colorado 80246. Director Wolk, as Executive Director of CDPHE, has, under the authority of Governor Hickenlooper, the concomitant duty to take care that the laws of the State of Colorado are faithfully executed and, in particular, that Colorado's Abortion Funding Prohibition Amendment has been and is being complied with. *See* C.R.S. § 24-1-119. This action is brought against Director Wolk in his official capacity as Executive Director of CDPHE.

II. VENUE

6. Pursuant to C.R.C.P. 98(b)(2), venue is proper in the City and County of Denver, State of Colorado.

III. BACKGROUND AND FACTS

7. In November 1984, the voters of the State of Colorado approved Colorado's Abortion Funding Prohibition Amendment as an amendment to the Colorado Constitution. Colorado's Abortion Funding Prohibition Amendment prohibits the use of public funds, either directly or indirectly, to pay for induced abortions. Colorado's Abortion Funding Prohibition Amendment, set forth as Article V, Section 50 of the Colorado Constitution, states:

> **No public funds shall be used** by the State of Colorado, its agencies or political subdivisions **to pay or otherwise reimburse, either directly or indirectly, any person, agency or facility for the performance of any induced abortion**, PROVIDED HOWEVER, that the General Assembly, by specific bill, may authorize and appropriate funds to be used for those medical services necessary to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort is made to preserve the life of each. (emphasis added).

8. Colorado's Abortion Funding Prohibition Amendment became effective on January 14, 1985.

9. In November 1986, an initiative proposing the repeal of Colorado's Abortion Funding Prohibition Amendment was rejected by Colorado voters. Thus, Colorado voters have twice affirmed Colorado's Abortion Funding Prohibition Amendment's prohibition on the use of Colorado taxpayer dollars to directly or indirectly subsidize induced abortions. Colorado's Abortion Funding Prohibition Amendment remains in force and effect to this day.

10. Defendant Rocky Mountain Planned Parenthood holds itself out as, among other things, a family planning services provider. At all times relevant herein, Defendant

Rocky Mountain Planned Parenthood has knowingly accepted and retained the benefits of violations by the Colorado Government Defendants of Colorado's Abortion Funding Prohibition Amendment.

11. Planned Parenthood of the Rocky Mountains Services Corporation ("Planned Parenthood Services") is, upon information and belief, a Colorado nonprofit corporation formed on August 26, 1999. Its principal office address is also 7155 East 38th Avenue, Denver, Colorado 80207. Upon information and belief, Planned Parenthood Services holds itself out as, among other things, a purveyor of induced surgical and medical abortions.

12. Upon information and belief, Defendant Rocky Mountain Planned Parenthood and Planned Parenthood Services are, and, at all times relevant herein, have been conjoined, interrelated, and integrated affiliates or entities of each other and occupy the same office space, utilize the same medical professional and lay staff, utilize the same medical supplies and services, utilize the same office supplies and services, utilize the same utilities, and, either individually or jointly, has periodically filed claims (and continues to file claims) for services rendered to Colorado citizens to Director Birch, Director Wolk and to other Colorado state governmental agencies which manage programs, including the Colorado-administered Title XIX-Medicaid program, a program jointly funded by state and federal monies, or the Colorado-administered Title X family planning grant programs.

13. Notwithstanding the fact that Colorado's Abortion Funding Prohibition Amendment has, at all times relevant herein, prohibited the direct or indirect use of public funds to pay for induced abortions, Governor Hickenlooper, Director Birch, and Director Wolk (collectively herein the "Colorado Government Defendants") and other Colorado state government officials have, on and after 2009 and in violation Colorado's Abortion Funding Prohibition Amendment, used public funds, i.e., state taxpayer dollars, to both manage and administer and to make reimbursements of public funds to Defendant Rocky Mountain Planned Parenthood.

14. In 2001, Ms. Norton, having been appointed by the then-Governor of Colorado, served as Executive Director of CDPHE.

15. Concerned that Colorado's Abortion Funding Prohibition Amendment was being, and had been for several years, violated by Colorado state governmental agencies, Ms. Norton directed that CDPHE determine whether Defendant Rocky Mountain Planned Parenthood and/or Planned Parenthood Services were being provided Colorado taxpayer funds which resulted in the direct or indirect subsidization of abortion services.

16. At Ms. Norton's direction, CDPHE thereupon retained the Greeley, CO, accounting firm of Anderson & Whitney to determine whether Defendant Rocky Mountain Planned Parenthood was "separately incorporated, maintain[ed] separate facilities, and maintain[ed] financial records which demonstrate[d] financial

independence from PPRM Services Corporation" – the affiliate of Defendant Rocky Mountain Planned Parenthood which did then and still does perform abortions.

17. On September 5, 2001, Anderson & Whitney determined that Defendant Rocky Mountain Planned Parenthood was, indeed, "subsidizing the rent for Planned Parenthood Services Corporation, an affiliate that performs abortions . . . [and] refused to comply with the recommendations of the independent auditor [and subsequent instructions from Ms. Norton] to charge fair market rent to the affiliate" and otherwise separate the activities and operations of Defendant Rocky Mountain Planned Parenthood from the activities and operations of Planned Parenthood Services. Anderson & Whitney's Report summary is attached hereto as Exhibit A.

18. When Defendant Rocky Mountain Planned Parenthood refused to take action "to demonstrate its independence from its abortion-providing affiliate [Planned Parenthood Services] and thus [be in] compliance with the Colorado Constitution", Ms. Norton announced that CDPHE was precluded by Colorado's Abortion Funding Prohibition Amendment from providing Colorado taxpayer dollars to Defendant Rocky Mountain Planned Parenthood or otherwise awarding Colorado contracts to Defendant Rocky Mountain Planned Parenthood because of Defendant Rocky Mountain Planned Parenthood's direct or indirect subsidization of Planned Parenthood Services' abortion operations.

19. As a result, CDPHE terminated a 24-year contractual relationship with Defendant Rocky Mountain Planned Parenthood and ceased all further Colorado taxpayer funding of Defendant Rocky Mountain Planned Parenthood. *See* CDPHE December 14, 2001 News Release attached hereto as Exhibit B.

20. Upon information and belief, after CDPHE terminated Colorado taxpayer funding of Defendant Rocky Mountain Planned Parenthood on or about December 14, 2001, Defendant Rocky Mountain Planned Parenthood has intentionally not taken any action "to demonstrate its independence from its abortion-providing affiliate and thus compliance with the Colorado Constitution" or to otherwise become independent from its abortion-providing affiliate and thus be eligible to receive Colorado public funds in compliance with the Colorado's Abortion Funding Prohibition Amendment.

21. Thus, upon information and belief, since about January 15, 2009 to the present date, the Colorado Government Defendants and other Colorado government agencies have breached their constitutional and statutory duties to take care that the laws of the State of Colorado are faithfully executed and have, during this time, violated and continue to violate Colorado's Abortion Funding Prohibition Amendment.

22. Upon information and belief, since about January 15, 2009 to the present date, the Colorado Government Defendants and other Colorado government agencies have provided approximately $14 million in public funds to Defendant Rocky Mountain Planned Parenthood and thereby have, in violation of Colorado's Abortion Funding

Prohibition Amendment, directly or indirectly subsidized Planned Parenthood Services' abortion operations.

23. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to or provided Defendant Rocky Mountain Planned Parenthood **$1,944,541.99** in public funds during fiscal year **2009** (see Exhibit C), including public funds from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received $661,141.31 of public funds, i.e., Colorado state taxpayer dollars from the CDPHE. See Exhibit D.

b. Defendant Rocky Mountain Planned Parenthood received $1,283,382.68 of public funds, i.e., Colorado state taxpayer dollars from the CDHCPF. See Exhibit E.

24. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to Defendant Rocky Mountain Planned Parenthood **$2,300,469.27** (see Exhibit F) in public funds during fiscal year **2010** including public funds from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received $616,317.73 of public funds, i.e., Colorado state taxpayer dollars from the CDPHE. See Exhibit G.

b. Defendant Rocky Mountain Planned Parenthood received $1,683,679.04 of public funds, i.e., Colorado state taxpayer dollars from the CDHCPF. See Exhibit H.

25. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to Defendant Rocky Mountain Planned Parenthood **$3,315,586.98** (see Exhibit I) in public funds during fiscal year **2011** including public funds from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received $809,187.00 of public funds, i.e., Colorado state taxpayer dollars from the CDPHE. See Exhibit J.

b. Defendant Rocky Mountain Planned Parenthood received $2,506,113.23 of public funds, i.e., Colorado state taxpayer dollars from the CDHCPF. See Exhibit K.

26. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to Defendant Rocky Mountain Planned Parenthood **$2,734,098.62** (see Exhibit L) in public funds during fiscal year **2012** including public funds from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received $525,927.62 of public funds, i.e., Colorado state taxpayer dollars from CDPHE. See Exhibit M.

b. Defendant Rocky Mountain Planned Parenthood received $2,207,317.63 of public funds, i.e., Colorado state taxpayer dollars from CDHCPF. See Exhibit N.

27. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to Defendant Rocky Mountain Planned Parenthood **$3,454,678.29** (see Exhibit O) in public funds during fiscal year **2013** including public funds from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received a total of $763,404.26 of public funds, i.e., Colorado state taxpayer dollars from CDPHE. See Exhibit P.

b. Defendant Rocky Mountain Planned Parenthood received a total of $2,685,971.03 of public funds, i.e., Colorado state taxpayer dollars from CDHCPF. See Exhibit Q.

28. According to Colorado government records obtained via Colorado's "Transparency Online Project," responses to CORA requests, and from other sources, Colorado government agencies have, in violation of Colorado's Abortion Funding Prohibition Amendment, paid to Defendant Rocky Mountain Planned Parenthood **$697,287.56** (see Exhibit R) in public funds to date during fiscal year **2014** from the Colorado Government Defendants as follows:

a. Defendant Rocky Mountain Planned Parenthood received a total of $97,173.12 to date of public funds, i.e., Colorado state taxpayer dollars from CDPHE. See Exhibit S.

b. Defendant Rocky Mountain Planned Parenthood received a total of $599,614.44 to date of public funds, i.e., Colorado state taxpayer dollars from CDHCPF. See Exhibit T.

29. In addition to the foregoing amounts, the Colorado Government Defendants and other Colorado government agencies expended public funds, i.e., Colorado state taxpayer dollars, over and above the actual payments made directly to Defendant Rocky Mountain Planned Parenthood. For example, in addition to public funds directly paid to Defendant Rocky Mountain Planned Parenthood as set forth above, public funds, i.e., Colorado state taxpayer dollars, have been and are being expended by the Colorado Government Defendants and other Colorado government agencies to pay for the salary and benefits of Colorado government employees who process, manage, administer, and/or distribute public funds to the Defendant Rocky Mountain Planned Parenthood.

30. In addition, public funds are also expended to provide materials or supplies used to request, obtain, process, administer and/or distribute such public funds. Colorado equipment, materials and supplies are utilized by the Colorado Government Defendants to facilitate the programs and payments to Defendant Rocky Mountain Planned Parenthood. State electronic mail and computers are also used to communicate about public funds paid by the Colorado Government Defendants to Defendant Rocky Mountain Planned Parenthood.

31. As is well-known to all Defendants, Defendant Rocky Mountain Planned Parenthood has, since Ms. Norton's 2001 determination to defund Defendant Rocky Mountain Planned Parenthood, taken no action "to demonstrate its independence from its abortion-providing affiliate [Planned Parenthood Services] and thus [its] compliance with the Colorado Constitution."

32. Thus, since January 15, 2009 to the present date, the Colorado Government Defendants have, in direct violation of Colorado's Abortion Funding Prohibition Amendment and in breach of their duties to take care that the laws of the State of Colorado have been and are being faithfully executed, improperly and unlawfully disbursed approximately $14 million in public funds, i.e., Colorado taxpayer dollars, to Defendant Rocky Mountain Planned Parenthood.

33. The Colorado Government Defendants, in improperly and unlawfully disbursing approximately $14 million in public funds, i.e., Colorado taxpayer dollars, to Defendant Rocky Mountain Planned Parenthood since January 15, 2009 to the present date, have acted ultra vires as the Colorado Government Defendants have no constitutional or statutory authority to pay or to agree to disburse public funds, i.e., Colorado taxpayer dollars, to Defendant Rocky Mountain Planned Parenthood.

34. Absent relief from this Court, the Colorado Government Defendants will continue to violate Colorado's Abortion Funding Prohibition Amendment by disbursing public funds, i.e., Colorado taxpayer dollars, to Defendant Rocky Mountain Planned

Parenthood and thus continue to directly or indirectly subsidize Planned Parenthood Services' abortion operations.

35. All Defendants knew or should have known that the disbursement of public funds, i.e., Colorado taxpayer dollars, by the Colorado Government Defendants to Defendant Rocky Mountain Planned Parenthood was and continues to be a violation of Colorado's Abortion Funding Prohibition Amendment.

36. Defendant Rocky Mountain Planned Parenthood has, since January 15, 2009 to the present date, knowingly and unlawfully received approximately $14 million in public funds, i.e., Colorado taxpayer dollars, from the Colorado Government Defendants in violation of Colorado's Abortion Funding Prohibition Amendment.

37. All Defendants knew or should have known that the disbursement of public funds, i.e., Colorado taxpayer dollars, by the Colorado Government Defendants to Defendant Rocky Mountain Planned Parenthood was and continues unjustly enrich Defendant Rocky Mountain Planned Parenthood.

IV. FIRST CLAIM FOR RELIEF
(Declaratory Judgment v. the Colorado Government Defendants)

38. Plaintiff incorporates the allegations set forth in the foregoing paragraphs as if fully set forth herein.

39. Plaintiff is entitled to a declaratory judgment pursuant to the Colorado Uniform Declaratory Judgment Act, C.R.S. §§ 13-51-101 *et seq.*, and C.R.C.P. 57 to determine her rights with respect to the Colorado Government Defendants' unlawful expenditure of public funds in violation of Colorado's Abortion Funding Prohibition Amendment.

40. Plaintiff requests that this Court enter judgment declaring that the Colorado Government Defendants' actions in contracting with and/or paying public funds to Defendant Rocky Mountain Planned Parenthood violate Colorado's Abortion Funding Prohibition Amendment.

41. Plaintiff requests that this Court enter judgment declaring that any contracts entered into by the Colorado Government Defendants with Defendant Rocky Mountain Planned Parenthood are void and not merely voidable.

V. SECOND CLAIM FOR RELIEF
(Preliminary and Permanent Injunction v. the Colorado Government Defendants)

42. Plaintiff incorporates the allegations set forth in the foregoing paragraphs as if fully set forth herein.

43. The unconstitutional expenditure of public funds by the Colorado Government Defendants has caused Plaintiff and other Colorado taxpayers to suffer real, immediate and, irreparable injury for which there is no adequate remedy at law.

44. Requiring the Colorado Government Defendants to comply with the Abortion Funding Prohibition Amendment to the Colorado Constitution, in their contracting activities and payment of public funds to Defendant Rocky Mountain Planned Parenthood will serve the public interest. Moreover, the balance of equities favors an injunction.

45. Plaintiff requests that this Court enter its order preliminarily and permanently enjoining the Colorado Government Defendants from further violations of Colorado's Abortion Funding Prohibition Amendment in their contracting activities and payment of public funds to Defendant Rocky Mountain Planned Parenthood.

VI. THIRD CLAIM FOR RELIEF
(Unjust Enrichment v. Rocky Mountain Planned Parenthood)

46. Plaintiff incorporates the allegations set forth in the foregoing paragraphs as if fully set forth herein.

47. Defendant Rocky Mountain Planned Parenthood has, at all times relevant herein, known that, by virtue of Colorado's Abortion Funding Prohibition Amendment and Ms. Norton's 2001 directive by which Defendant Rocky Mountain Planned Parenthood was defunded pursuant to Colorado's Abortion Funding Prohibition Amendment, it was ineligible to receive public funds, i.e., Colorado taxpayer dollars from the Colorado Government Defendants.

48. Notwithstanding the foregoing facts, Defendant Rocky Mountain Planned Parenthood improperly and unlawfully received and accepted from the Colorado Government Defendants and other Colorado government agencies the benefit of approximately $14 million in public funds, i.e., Colorado taxpayer dollars.

49. Insomuch as Defendant Rocky Mountain Planned Parenthood has been and continues to be unjustly enriched by this benefit of approximately $14 million in public funds conferred upon Defendant Rocky Mountain Planned Parenthood by the Colorado Government Defendants and by other Colorado government agencies, it would be inequitable for Defendant Rocky Mountain Planned Parenthood to retain such benefit.

VII. FOURTH CLAIM FOR RELIEF
(Constructive Trust v. Defendant Rocky Mountain Planned Parenthood)

50. Plaintiff incorporates the allegations set forth in the foregoing paragraphs as if fully set forth herein.

51. Equity requires the imposition of a constructive trust against Defendant Rocky Mountain Planned Parenthood in favor of the State of Colorado in the approximate amount of $14 million representing the benefit, i.e., the public funds (Colorado taxpayer dollars), improperly and unlawfully conferred by the Colorado Government Defendants and other Colorado government agencies upon Defendant Rocky Mountain Planned Parenthood.

WHEREFORE, Plaintiff Jane E. Norton, through counsel, respectfully pleads as aforesaid and prays for the following relief:

a. Declaratory judgment that the Colorado Government Defendants' actions in contracting with and/or paying public funds to Defendant Rocky Mountain Planned Parenthood violates the Abortion Funding Prohibition Amendment to the Colorado Constitution.

b. A preliminary injunction enjoining the Colorado Government Defendants from further violations of the Abortion Funding Prohibition Amendment to the Colorado Constitution.

c. A permanent injunction enjoining the Colorado Government Defendants from further violations of the Abortion Funding Prohibition Amendment to the Colorado Constitution.

d. An order requiring Defendant Rocky Mountain Planned Parenthood to make restitution to the State of Colorado in the amount of enrichment unjustly received by Defendant Rocky Mountain Planned Parenthood.

e. An order imposing a constructive trust upon Defendant Rocky Mountain Planned Parenthood in favor of the State of Colorado as to the amount of public funds, i.e., Colorado taxpayer dollars, conferred upon Defendant Rocky Mountain Planned Parenthood by the Colorado Government Defendants and other Colorado government agencies.

f. For Plaintiff's costs and attorney's fees as may be provided by law.

g. For such other and further relief as the Court may deem just and proper.

Respectfully submitted this 15th day of October, 2013.

***Attorneys for Plaintiffs*:**

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VERIFICATION

Jane E. Norton, Plaintiff, states that she is over the age of 18, has read the foregoing complaint, has personal knowledge of the facts set forth in the foregoing motion, and that the facts set forth in the foregoing motion are true and correct to the best of her knowledge, information and belief.

s/ Jane E. Norton
Jane E. Norton

State of Colorado)
) ss.
County of Arapahoe)

Acknowledged, subscribed, and sworn to before me by Jane E. Norton, Respondent, this 15th day of October, 2013.

Witness my hand and seal.

My commission expires:

Notary Public

MARILYN M. KUIPERS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134001935
MY COMMISSION EXPIRES JANUARY 22, 2017

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ANDERSON & WHITNEY PC

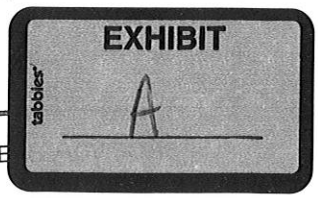
Independent Accountants' Report on Applying Agreed-Upon Procedures

Colorado Department of Public Health and Environment
Denver, Colorado

We have performed the procedures enumerated below, which were agreed to by the management of Colorado Department of Public Health and Environment, to the assertion that Planned Parenthood of the Rocky Mountains, Inc. (PPRM) is separately incorporated, maintains separate facilities, and maintains financial records which demonstrate financial independence from PPRM Services Corporation (Services Corp.). This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

- We read the articles of incorporation and bylaws for PPRM and Services Corp. and inquired if they accurately represent current practice.
- We reviewed the two most recent audited financial statements, including management letters, for PPRM and Services Corp. for indication the two organizations are not separately incorporated, maintaining separate facilities or maintaining financial records which demonstrate their financial independence.
- We read the most recent IRS Form 990 for indications that the organizations are not separately incorporated, maintaining separate facilities or maintaining financial records which demonstrate their financial independence.
- We contacted PPRM and Service Corp.'s financial auditors, KPMG, LLP, and inquired as to the type of financial transactions between PPRM and Services Corp. and whether there are indications that PPRM could be subsidizing Services Corp. Per inquiry of a KPMG representative, no exceptions were noted in their testing regarding these matters.
- We reviewed the property and services agreement between PPRM and Services Corp. which allows Services Corp. to lease property, equipment, and employees from PPRM at fair market value. It also requires Services Corp. to pay PPRM a monthly management and administration fee based on the proportion of Services Corp. direct expenses to PPRM direct expenses.
- We toured the PPRM and Services Corp. facilities in Fort Collins, Colorado and the Services Corp. facilities in Colorado Springs, Durango, and Denver (Vine Street), Colorado.



In Fort Collins, the entities rent adjoining suites with separate entrances, phone lines, etc. Both units have signs indicating "Planned Parenthood". According to PPRM and Services Corp. representatives, no cost sharing agreement is necessary for this location since costs are segregated by corporation.

In Colorado Springs, Durango, and Denver (Vine Street) all services are provided from a single location with no separate entrances. These locations have signs indicating "Planned Parenthood". According to PPRM and Services Corp. representatives, the costs of these locations are entirely charged to Services Corp.

- We read the most recent audited financial statements to identify financial interactions between PPRM and PPRM Services Corp. The only transactions disclosed were the transfer of assets and liabilities from PPRM to Services Corp. at inception and the agreement to provide leased property and equipment, leased employees, and administrative and management services between the organizations. Also, it is disclosed that Services Corp. has a $100,000 deposit to PPRM for such services, so as not to create any outstanding balance of any kind.

- We inquired of PPRM and Services Corp. staff if they were aware of any other types of transactions between the entities other than those described above. They responded that they were not aware of any other transactions.

- We reviewed 15 transactions judgmentally selected between the entities under the property and services agreement and traced them to supporting documentation. They were primarily for reimbursement of leased property and employees and for payment of Services Corp. share of administrative costs. No exceptions were noted. Two payments tested were in excess of the $100,000 deposit Services Corp. has with PPRM: one for $117,802 in February 2001, and one for $100,577 in March 2001.

- The start-up transactions between PPRM and Services Corp. at the inception of Services Corp. were reviewed. It appears that a portion of the cash, inventory, and equipment of PPRM at August 25, 1999, were transferred to Services Corp. in the amount of $889,101. It does not appear that any assets were sold to Services Corp.

- Per inquiry of PPRM and Services Corp. representatives, PPRM is not guaranteeing any loans or other liabilities of Services Corp. The audited financial statements also did not disclose any such guarantees.

- We inquired of PPRM and Services Corp. accounting staff about whether PPRM is otherwise transferring funds or making donations to Services Corp. They responded that they were not aware of any.

COMMENTS AND RECOMMENDATIONS

Because payments between the entities periodically are over $100,000, we recommend that the deposit made by Services Corp. be increased to a larger level to avoid a short-term liability before costs are reimbursed.

It appears that the lease rates for buildings in Durango, Colorado Springs, and Denver (Vine Street) leased to Services Corp. are based on PPRM's depreciation expense plus other direct costs. The cost reimbursements appear to be well under market lease rates, in order to meet statutory requirements for property tax exemption. We recommend that lease rates be at fair market value, in accordance with the property and services agreement.

❖ ❖ ❖ ❖ ❖

We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the specified elements, accounts, or items herein. Accordingly, we do not express such an opinion. Also, we express no opinion on the effectiveness of PPRM or Services Corp.'s internal control structure over financial reporting or any part thereof. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Anderson + Whitney, P.C.

September 5, 2001

Colorado Department
of Public Health
and Environment

*"To protect and improve
the health and environment
of the people of Colorado"*

NEWS

4300 Cherry Creek Drive South, Denver, CO 80246 • (303) 692-2000

Contact: Cindy Parmenter
Director of Communications
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For Immediate Release

Friday, December 14, 2001

STATE HEALTH DEPARTMENT NOTIFIES PLANNED PARENTHOOD OF INELIGIBLITY TO RECEIVE STATE FUNDS BECAUSE OF CONSTITUTIONAL PROHIBITION ON SUBSIDIZING ABORTIONS

DENVER -- The Colorado Department of Public Health and Environment announced today that in order to comply with the Colorado Constitution it cannot award state family planning funds to Planned Parenthood of the Rocky Mountains. After an outside, independent review of Planned Parenthood and its affiliates, the Department of Public Health and Environment determined that awarding the contract would be a violation of the State Constitution which prohibits using taxpayer funds to subsidize abortions.

The review, conducted by the Greeley accounting firm of Anderson & Whitney, found that Planned Parenthood of the Rocky Mountains is subsidizing the rent for Planned Parenthood Services Corporation, an affiliate that performs abortions. Despite lengthy negotiations over several months, Planned Parenthood of the Rocky Mountains has refused to comply with the recommendations of the independent auditor to charge fair market rent to the affiliate.

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The department also notified Planned Parenthood of its concern that the group may be out of compliance with federal regulations regarding the fees it charges some low-income women for contraceptives. As the administrator of federal Title X family planning dollars in the state, the department must ensure that all entities receiving those dollars comply with federal regulations. Planned Parenthood charges some low-income women significantly more than any other provider in Colorado for contraceptive methods. The department therefore is asking the federal government for guidance on whether Planned Parenthood's fees meet federal regulations intended to ensure low-income women have access to affordable contraceptive services.

Under the federal Title X family planning program, contraceptives are supposed to be priced on a sliding fee scale, so low-income women pay less. Planned Parenthood charges some low-income women significantly more for contraceptives than any other Title X provider in Colorado. For instance, for women at 101 percent of poverty, other Title X agencies charge an average of $5.50 per month for contraceptives while Planned Parenthood charges $16 per month.

"Our responsibility is to ensure that low-income women have access to affordable family planning services while abiding by the Colorado Constitution and federal regulations," said Jane E. Norton, the executive director of the Colorado Department of Public Health and Environment. "We cannot award funds to Planned Parenthood because Colorado voters have twice said they do not want taxpayer dollars to directly or indirectly pay for abortions."

In 1984, Colorado voters approved Article V, Section 50 of the Colorado Constitution. It states: "No public funds shall be used by the State of Colorado, its agencies or political subdivisions to pay or otherwise reimburse, either directly or indirectly, any person, agency or facility for the performance of any induced abortion." A subsequent initiative to repeal this provision was rejected by the voters, who thus have twice affirmed that they do not want taxpayer dollars to subsidize abortions.

Planned Parenthood of the Rocky Mountains would have received $381,956 in state family planning funds from the department to provide family planning services to low-income women if it was in compliance with the Constitution. The Department of Public Health and Environment hired the outside, independent accounting firm to review Planned Parenthood's finances and operations.

---more---

The review, completed by Anderson & Whitney in September 2001, found that Planned Parenthood of the Rocky Mountains and its abortion-providing affiliate, Planned Parenthood Services Corporation, did not demonstrate adequate independence to ensure that state taxpayer dollars would not indirectly pay for abortions.

The $381,956 represents less than three percent of the overall operating budget for Planned Parenthood. Consequently, the state does not anticipate that Planned Parenthood would have to make any significant reductions in family planning services.

Despite many requests from the department, Planned Parenthood refused to comply with all of the recommendations of the outside reviewer needed to ensure no taxpayer funds were used for abortions. In particular, Planned Parenthood of the Rocky Mountains subsidizes the rent for the abortion-performing Planned Parenthood Services Corporation. Anderson & Whitney found,"Paying less than fair [market] value does not demonstrate the independence of the affiliate and could be viewed as providing an indirect benefit to Services Corp."

"If Planned Parenthood wants to accept state tax dollars, it is their responsibility to demonstrate that they comply with the state Constitution," said Cynthia S. Honssinger, director of the department's Office of Legal and Regulatory Affairs. "They were found in an independent, outside review to be out of compliance and refused to take corrective action. It would be a violation of the Colorado Constitution for us to sign a contract with them."

If Planned Parenthood of the Rocky Mountains had been able to demonstrate its independence from its abortion-providing affiliate and thus compliance with the Colorado Constitution, the department was going to sign a contract by January 1, 2002. The Department is now working with other medical providers and health agencies to distribute the state funds for family planning services. The department may establish a health care voucher system to directly pay health agencies that treat low-income women.

Norton said, "Low-income women in Colorado need access to affordable family planning services. We are working to make certain that women's health services continue to be available throughout the state."

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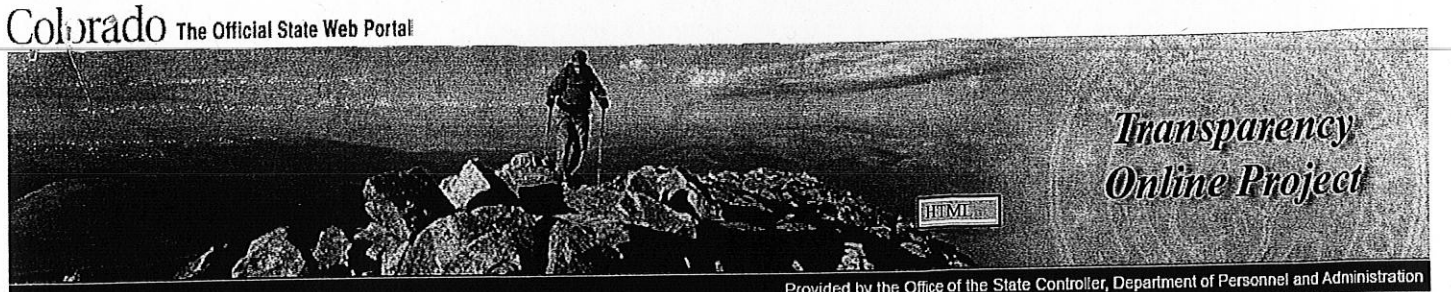
Colorado The Official State Web Portal



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Select FY: 2009 Vendor name 1st character: R S Vendor name 2nd character: RO RP RR Submit

Select a fiscal year, 1st and 2nd characters of vendor names to narrow search fields and click submit to view report

OTHER TRANSPARENCY RESOURCES

- OFFICE OF STATE PLANNING AND BUDGET
- CAFR
- BUDGET TO ACTUAL FY
- STAR REPORT
- INVESTMENTS
- INFRASTRUCTURE
- FEDERAL RECOVERY
- COLORADO RECOVERY
- REPORT FRAUD
- CONTRACT MANAGEMENT SYSTEMS

Account Information for FY 2009
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH

Export as XML

Department	Department Name	AMOUNT
F	DEPT OF PUB HLTH & ENVIRONMENT	$661,141.31
I	DEPARTMENT OF HUMAN SERVICES	$18.00
U	DEPT OF HLTH CARE POLICY & FIN	$1,283,382.68
TOTAL		$1,944,541.99

EXHIBIT
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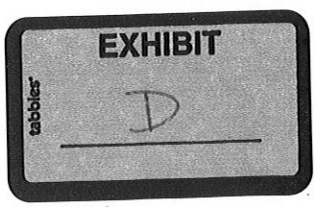
Account information for FY: 2009
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FLA - HEALTH-PREVENTION
Export as XML

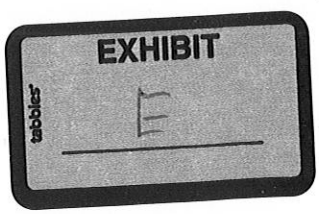
Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
5140	GRANTS-INTERGOVERNMENTAL					$1,788.48
5781	GRANTS TO NONGOV/ORGANIZATIONS					$659,352.83
TOTAL						$661,141.31



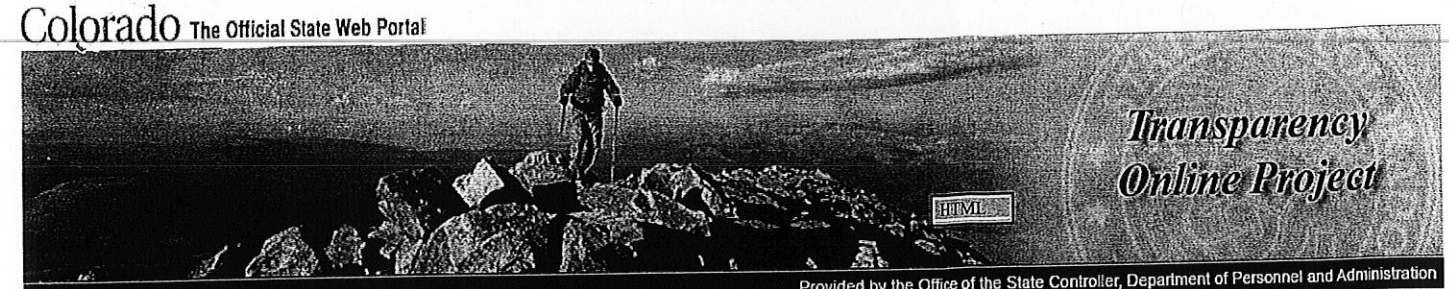
Account information for FY: 2009
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN

Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$1,283,382.68
TOTAL						$1,283,382.68



Colorado The Official State Web Portal



Provided by the Office of the State Controller, Department of Personnel and Administration

Select FY: 2010 Vendor name 1st character: R S Vendor name 2nd character: RO RP Submit

Select a fiscal year, 1st and 2nd characters of vendor names to narrow search fields and click submit to view report

Vendor Search Home
Go to:
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Expenditure Type Search
Department Revenue Search
Revenue Type Search

OTHER TRANSPARENCY RESOURCES

OFFICE OF STATE PLANNING AND BUDGET
CAFR
BUDGET TO ACTUAL FY
STAR REPORT
INVESTMENTS
INFRASTRUCTURE
FEDERAL RECOVERY
COLORADO RECOVERY
REPORT FRAUD
CONTRACT MANAGEMENT SYSTEMS

Account Information for FY: 2010

For Vendor: ROCKY MOUNTAIN PLANNED PARENTH

Export as XML

Department	Department Name	AMOUNT
F	DEPT OF PUB HLTH & ENVIRONMENT	$616,317.73
I	DEPARTMENT OF HUMAN SERVICES	$168.00
J	JUDICIAL	$304.50
U	DEPT OF HLTH CARE POLICY & FIN	$1,683,679.04
TOTAL		$2,300,469.27

EXHIBIT tabbies F

Agency information FY: 2010
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT

Export as XML

AGENCY	AGENCYNAME	Amount
FHA	HEALTH-DISEASE CONTROL & EPI	$32.50
FLA	HEALTH-PREVENTION	$616,285.23
TOTAL		**$616,317.73**

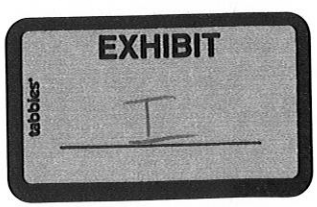
WebFOCUS Report

Account information for FY: 2010
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$1,683,679.04
TOTAL						$1,683,679.04

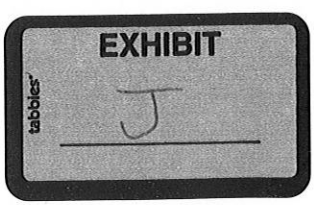
Account Information for FY: 2011
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
Export as XML

Department	Department Name	AMOUNT
F	DEPT OF PUB HLTH & ENVIRONMENT	$809,187.25
I	DEPARTMENT OF HUMAN SERVICES	$186.50
J	JUDICIAL	$100.00
U	DEPT OF HLTH CARE POLICY & FIN	$2,506,113.23
TOTAL		**$3,315,586.98**



Account information for FY: 2011
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FLA - HEALTH-PREVENTION
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$529,165.00
5781	GRANTS TO NONGOV/ORGANIZATIONS					$279,955.00
TOTAL						**$809,120.00**

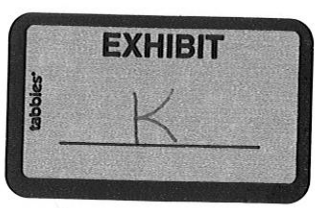


Account information for FY: 2011
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FHA - HEALTH-DISEASE CONTROL & EPI
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2820	OTHER PURCHASED SERVICES					$67.25
TOTAL						**$67.25**

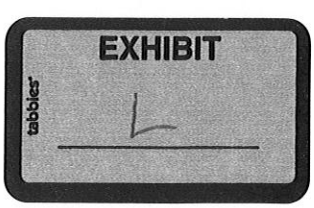
Account information for FY: 2011
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$2,506,113.23
TOTAL						**$2,506,113.23**



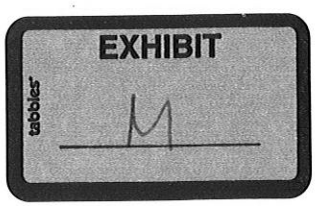
Account Information for FY: 2012
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
Export as XML

Department	Department Name	AMOUNT
D	DEPARTMENT OF EDUCATION	$200.00
F	DEPT OF PUB HLTH & ENVIRONMENT	$525,927.62
I	DEPARTMENT OF HUMAN SERVICES	$57.00
J	JUDICIAL	$596.37
U	DEPT OF HLTH CARE POLICY & FIN	$2,207,317.63
TOTAL		**$2,734,098.62**



Account information for FY: 2012
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FLA - HEALTH-PREVENTION
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2520	IN-STATE TRAVEL/NON-EMPLOYEE					$225.00
2710	PURCHASED MEDICAL SERVICES					$525,702.62
TOTAL						$525,927.62



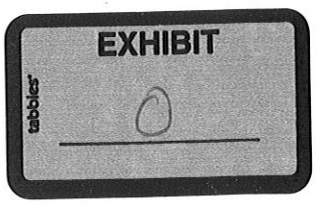
Account information for FY: 2012
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN

Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
				1342	ACCOUNTS RECEIVABLE - OTHER	-$25,263.27
2710	PURCHASED MEDICAL SERVICES					$2,232,580.90
TOTAL						$2,207,317.63

Account Information for FY: 2013
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
Export as XML

Department	Department Name	AMOUNT
F	DEPT OF PUB HLTH & ENVIRONMENT	$763,404.26
I	DEPARTMENT OF HUMAN SERVICES	$5,203.00
J	JUDICIAL	$100.00
U	DEPT OF HLTH CARE POLICY & FIN	$2,685,971.03
TOTAL		$3,454,678.29

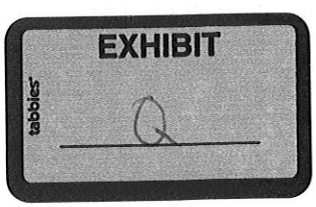


Account information for FY: 2013
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FLA - HEALTH-PREVENTION
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$763,404.26
TOTAL						$763,404.26

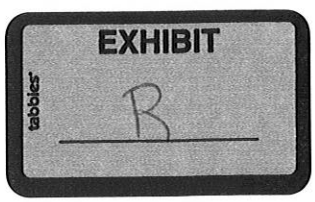
Account information for FY: 2013
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$2,685,971.03
TOTAL						**$2,685,971.03**



Account Information for FY: 2014
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
Export as XML

Department	Department Name	AMOUNT
F	DEPT OF PUB HLTH & ENVIRONMENT	$97,173.12
I	DEPARTMENT OF HUMAN SERVICES	$500.00
U	DEPT OF HLTH CARE POLICY & FIN	$599,614.44
TOTAL		$697,287.56



Account information for FY: 2014
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: F - DEPT OF PUB HLTH & ENVIRONMENT
For Agency: FLA - HEALTH-PREVENTION
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$97,173.12
TOTAL						**$97,173.12**

Account information for FY: 2014
For Vendor: ROCKY MOUNTAIN PLANNED PARENTH
For Department: U - DEPT OF HLTH CARE POLICY & FIN
For Agency: UHA - DEPT OF HLTH CARE POLICY & FIN
Export as XML

Expenditure Code	Expenditure Name	Revenue	Revenue Name	Balance Sheet Account	Balance Sheet Account Name	AMOUNT
2710	PURCHASED MEDICAL SERVICES					$599,614.44
TOTAL						**$599,614.44**