

CONTRACT FOR HUMAN SERVICES

This contract for Human Services (the Contract) is entered into by Kitsap County, a municipal corporation, having its principal offices at 614 Division Street, Port Orchard, Washington, 98366 (the County); and Cares of Washington having its principal office at 1833 N. 105th St., Suite 201, Seattle, WA 98133 (the Contractor).

SECTION 1. EFFECTIVE DATE OF CONTRACT

The Contract will become effective on July 1, 2023 and terminate on June 30, 2024. In no event will the Contract become effective unless and until it is approved and executed by the Kitsap County Board of County Commissioners or the Kitsap County Administrator.

SECTION 2. SERVICES TO BE PROVIDED

- 2.1 A description of the services to be performed by the Contractor is set forth in Attachment C: Service Information Form, which is attached to the Contract.
- 2.2 The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor or facilities will be furnished by the County.
- 2.3 The Contractor will perform the work specified in the Contract according to standard industry practice.
- 2.4 The Contractor will complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- 2.5 The Contractor will confer with the County from time to time during the progress of the work. The Contractor will prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the County.

SECTION 3. CONTRACT REPRESENTATIVES

The County and the Contractor will each have a contract representative. A party may change its representative upon providing written notice to the other party. The parties' representatives are as follows.

County's Contract Representative

Kelly Oneal, Program Coordinator
Kitsap County Department of Human Services
614 Division Street MS-23, Port Orchard, WA 98366
(360) 337-4624

Contractor's Contract Representative

Lars Nowack
1833 N. 105th St., Suite 201
Seattle, WA 98133

SECTION 4. COMPENSATION

- 4.1 A description of the compensation to be paid to the Contractor is set forth in Attachment C: Budget Summary, which is attached to the Contract.
- 4.2 The total amount payable under the Contract, by the County to the Contractor, in no event will exceed \$271,568. Any cost incurred by the Contractor over and above the year-end sums set out in the budgets shall be at the Contractor's sole risk and expense.
- 4.3 Unless otherwise provided in the Contract, the Contractor may submit an invoice to the County once a month for payment of work actually completed to date. Contractor shall use the Department of Human Services Contractor Invoice Form, available from the County. Subject to the other provisions of the Contract, the County generally will pay such an invoice within 30 days of receiving it.
- 4.4 The County will submit payments for work performed to;
Cares of Washington
1833 N. 105th St., Suite 201
Seattle, WA 98133
- 4.5 The Contractor will be paid only for work expressly authorized in the Contract.
- 4.6 Payments shall not be construed as a waiver of the County's right to challenge the level of the Contractor's performance under this Contract, and to seek appropriate legal remedies.
- 4.7 The Contractor will not be entitled to payment for any services that were performed prior to the effective date of the Contract or after its termination, unless a provision of the Contract expressly provides otherwise.
- 4.8 If the Contractor fails to perform any substantial obligation, and the failure has not been cured within 10 days following notice from the County, the County may, in its sole discretion and upon written notice to the Contractor, withhold all monies due the Contractor, without penalty, until such failure to perform is cured.
- 4.9 The Contractor shall pay no wages in excess of the usual and accustomed wages for personnel of similar background, qualifications and experience.
- 4.10 The Contractor shall pay no more than reasonable market value for equipment and/or supplies.

SECTION 5. AMENDMENTS AND CHANGES IN WORK

- 5.1 In the event of any errors or omissions by the Contractor in the performance of any work required under the Contract, the Contractor will make all necessary corrections without additional compensation. All work submitted by the Contractor will be certified and checked by the Contractor for errors and omissions. The Contractor will continue to be responsible for the accuracy of work even after the work is accepted by the County.
- 5.2 In order to be effective, any contract renewal, amendment or modification must be in writing, be signed by both parties, and be attached to the Contract. Work under a

renewal, amendment or modification may not commence until the renewal, amendment or modification has been approved by the County and has become effective.

- 5.3 Either party may request that the Contract terms be renegotiated when circumstances, which were neither foreseen nor reasonably foreseeable by the parties at the time of contracting, arise during the period of performance of the Contract. Such circumstances must have a substantial and material impact upon the performance projected under this Contract, and must be outside the control of either party.

SECTION 6. HOLD HARMLESS AND INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the County and its elected and appointed officials, officers, employees and agents from and against all claims resulting from or arising out of the performance of the Contract, whether such claims arise from the acts, errors or omissions of Contractor, its subcontractors, third parties or the County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors or omissions any of them may be liable. "Claim" means any loss, claim, suit, action, liability, damage or expense of any kind or nature whatsoever, including but not limited to attorneys' fees and costs, attributable to personal or bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom. Contractor's duty to indemnify, defend and hold harmless includes but is not limited to claims by Contractor's or any subcontractor's officers, employees or agents. Contractor's duty, however, does not extend to claims arising from the sole negligence or willful misconduct of the County or its elected or appointed officials, officers or employees. For the purposes of this indemnification provision, Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated by the parties. This indemnification provision shall survive the expiration or termination of the Contract.

SECTION 7. INSURANCE

- 7.1 **Professional Legal Liability.** The Contractor, if it is a licensed professional, will maintain professional legal liability or professional errors and omissions coverage appropriate to the Contractor's profession. The coverage will have a limit of not less than \$1 million per occurrence. The coverage will apply to liability for a professional error, act or omission arising out of the Contractor's services under the Contract. The coverage will not exclude bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Contract.
- 7.2 **Workers' Compensation and Employer Liability.** The Contractor will maintain workers' compensation insurance as required by Title 51, Revised Code of Washington, and will provide evidence of coverage to the Kitsap County Risk Management Division. If the Contract is for over \$50,000, then the Contractor will also maintain employer liability coverage with a limit of not less than \$1 million.

Any additional workers' compensation requirements can be found in Attachment A, Special Terms and Conditions.

- 7.3 **Commercial General Liability.** The Contractor will maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to a limit of not less than \$1 million per occurrence. The general aggregate limit will apply

separately to the Contract and be no less than \$2 million. The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of the Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard commercial general liability policy, including contractual liability coverage.

- 7.4 **Automobile Liability.** The Contractor will maintain automobile liability insurance as follows (check ONE of the following options):

Not Applicable.

X The Contractor will maintain commercial automobile liability insurance with a limit of not less than \$1 million each accident combined bodily injury and property damage. The aggregate limit will be at least \$2 million. Coverage will include owned, hired and non-owned automobiles.

The Contractor will maintain automobile liability insurance or equivalent form with a limit of not less than \$100,000 each accident combined bodily injury and property damage. The aggregate limit will be at least \$300,000. If a personal lines automobile liability policy is used to meet this requirement, it must include a business rider and must cover each vehicle to be used in the performance of the Contract and the certificates of insurance must evidence that these conditions have been met. If the Contractor will use non-owned vehicles in performance of the Contract, the coverage will include owned, hired and non-owned automobiles.

7.5 **Miscellaneous Insurance Provisions**

- A. The Contractor's liability insurance provision will be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.
- B. The Contractor's commercial general liability insurance and automobile liability insurance (if applicable) will include the County, its officers, officials, employees and agents as additional insureds with respect to performance of services.
- C. The Contractor's commercial general liability insurance and automobile liability insurance (if applicable) will contain no special limitations on the scope of protection afforded to the County as an additional insured.
- D. Any failure to comply with reporting provisions of the policies will not affect the coverage provided to the County, its officers, officials, employees or agents.
- E. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought subject to the limits of the insurer's liability.
- F. The Contractor will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements stated in these provisions.
- G. The insurance limits mandated for any insurance coverage required by the Contract are not intended to be an indication of exposure, nor are they limitations on indemnification.
- H. The Contractor will maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements scheduled to expire before completion of services will be renewed before expiration. If the Contractor's liability coverage is written as claims-made-policy, then the

Contractor must evidence the purchase of an extended-reporting period or “tail” coverage for a three-year period after completion of the services.

7.6 Verification of Coverage and Acceptability of Insurers.

- A. The Contractor will place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-VII, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.
- B. The Contractor will furnish the County with properly executed certificates of insurance or a signed policy endorsement which will clearly evidence all insurance required in this Section before work under this Contract shall commence. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract may not be canceled, or allowed to expire, except on 30-days' prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes must be amended so as not to negate the intent of this provision.
- C. The Contractor will furnish the County with evidence that the additional-insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured, or a letter of self-insurance from a public entity risk pool which waives the requirement.
- D. Certificates of insurance will show the certificate holder as Kitsap County and indicate “care of” the appropriate County office or department. The address of the certificate holder will be shown as the current address of the appropriate County office or department.
- E. The Contractor will request that the Washington State Department of Labor and Industries, Workers Compensation Representative, send verification to the County that the Contractor is currently paying workers' compensation.
- F. Evidence of such insurance, as required above, shall be provided to the County at the following address:

Kelly Oneal, Program Coordinator
Developmental Disabilities, Kitsap County Department of Human Services
614 Division Street, MS-23
Port Orchard, WA 98366

Upon receipt, the Human Services Department will ensure submission of all insurance documentation to the Risk Management Division, Kitsap County Department of Administrative Services.
- G. Written notice of cancellation or change will be mailed to the County Human Services Department as provided above.
- H. The Contractor or its broker will provide a copy of all insurance policies specified in the Contract upon request of the Kitsap County Risk Manager.

SECTION 8. TERMINATION

- 8.1 The County may terminate the Contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the

County. The County may terminate the Contract upon giving the Contractor 10-days' written notice. In that event, the County will pay the Contractor for all costs incurred by the Contractor in performing the Contract up to the date of such notice, subject to the other provisions of the Contract.

- 8.2 If funding for the underlying project or matter is withdrawn, reduced or limited in any way after the Contract is signed or becomes effective, the County may summarily terminate the Contract notwithstanding any other termination provision in the Contract. Termination under this provision will be effective upon the date specified in the written notice of termination sent by the County to the Contractor. No costs incurred after the effective date of termination will be paid.
- 8.3 If the Contractor breaches any of its obligations under the Contract, and fails to cure the breach within 10 days of written notice to do so by the County, the County may terminate the Contract. In that event, the County will pay the Contractor only for the costs of services accepted by the County. Upon such termination, the County, at its discretion, may obtain performance of the work elsewhere, and the Contractor will bear all costs and expenses incurred by the County in completing the work and all damages sustained by the County by reason of the Contractor's breach.

SECTION 9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- 9.1 The Contractor will perform under the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under the Contract will not be assigned, delegated or subcontracted to any other person or firm without the prior express written consent of the County.
- 9.2 If permitted to use subcontractors, the Contractor is responsible for subcontractor compliance with applicable terms and conditions of this Contract and all applicable laws.
- 9.3 The Contractor warrants that it has not paid, nor has it agreed to pay, any company, person, partnership or firm, other than a bona fide employee working exclusively for the Contractor, any fee, commission percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Contract.

SECTION 10. INDEPENDENT CONTRACTOR

- 10.1 The Contractor's services will be furnished by the Contractor as an independent contractor and not as an employee, agent or servant of the County. The Contractor will perform the services in strict accordance with the provisions of the Contract, but will be free from control or direction over the performance of the services.
- 10.2 At least one of the following applies: (a) the services to be provided are outside the usual course of business for which the services are performed; (b) the services to be provided will be performed outside all of the places of business of the Contractor; or (c) the Contractor is responsible for the costs of the principal place of business from which the services will be performed.
- 10.3 The Contractor warrants that it either: (a) is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the Contract; or (b) has a principal place of business for the business it is conducting that is eligible for a business deduction for federal income tax purposes.
- 10.4 The Contractor acknowledges or warrants that it: (a) is responsible for filing at the next applicable filing period a schedule of expenses with the Internal Revenue Service for

the type of business the Contractor is conducting; (b) has established an account with the State of Washington Department of Revenue and any other applicable state agencies for the business the Contractor is conducting for the payment of all state taxes normally paid by employers and businesses; and (c) has registered for and received a unified business identifier number from the State of Washington.

- 10.5 The Contractor warrants that it maintains a separate set of books or records that reflect all items of income and expenses of the business that the Contractor is conducting.
- 10.6 The Contractor acknowledges that the entire compensation for the Contract is set forth in the compensation provisions of the Contract and that the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental or other insurance benefits; fringe benefits; or any other rights or privileges afforded to County employees or agents.
- 10.7 In the event that any of the Contractor's employees, agents, servants or subcontractors, carry on activities or conduct themselves in any manner which may either jeopardize the funding of this Contract or indicates that they are unfit to provide those services as set forth within, the Contractor shall be responsible for taking adequate measure to prevent said employee, agent or servant from performing or providing any such services.
- 10.8 The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents from and against any loss or expense, including, but not limited to, settlements, judgments, set-offs, attorneys' fees or costs, incurred or suffered by reason of claims or demands arising in connection with the provisions of this Section.

SECTION 11. COMPLIANCE WITH LAWS

- 11.1 The Contractor, its employees, assignees, delegates or subcontractors will not discriminate against any person in performance of any of its obligations under the Contract on the basis of race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, veteran status or the presence of disability.
- 11.2 The Contractor, its employees, assignees, delegates and subcontractors will comply with all applicable provisions of the Americans With Disabilities Act and all regulations interpreting and enforcing such act.
- 11.3 The Contractor and its subcontractors, employees, agents, assignees and representatives will comply with all applicable federal, state and local laws, rules and regulations in their performance under the Contract.
- 11.4 Religious Activities. If the Contractor is a faith-based or religious organization, it retains its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs. Such a Contractor, however, may not use any funding provided under this Agreement to support or engage in any explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, nor may such a Contractor condition the provision of services provided pursuant to this Agreement upon a participant's engaging in any such explicitly religious activities.

SECTION 12. DOCUMENTATION AND OWNERSHIP OF MATERIALS

- 12.1 The Contractor will maintain readily accessible records and documents sufficient to provide an audit trail needed by the County to identify the receipt and expenditure of funds under this Contract, and to keep on record all source documents, such as time

and payroll records, mileage reports, supplies and material receipts, purchased equipment receipts, and other receipts for goods and services.

- 12.2 The Contractor will maintain property record cards and property identification tabs as may be directed by County codes and changes thereto. This applies only to property purchased from funds under this Contract specifically designated for such purposes. Ownership of equipment purchased with funds under this Contract so designated for purchase shall rest in the County and such equipment shall be so identified.
- 12.3 The Contractor will provide a detailed record of all sources of income for any programs it operates pursuant to this Contract, including state grants, fees, donations, federal funds and other funds outlined in this Contract, or any amendments or modifications to this Contract. Expenditure of all funds payable under this Contract must be in accordance with the attached Statement of Work.
- 12.4 All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under the Contract will be “works for hire” as defined by the U.S. Copyright Act of 1976 and will be owned by the County. Ownership includes the right to copyright, patent, and register, and the ability to transfer these rights.
- 12.5 All property and patent rights, including publication rights, and other documentation, including, machine-readable media, produced by the Contractor in connection with the work provided for under this Contract shall vest in the County and such materials will be provided to the County upon request.
- 12.6 An electronic copy of all word processing documents will be submitted to the County upon request or at the end of the job using the word processing program and version specified by the County.

SECTION 13. PATENT/COPYRIGHT INFRINGEMENT

The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the County, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor will be notified promptly in writing by the County of any notice of such claim.

SECTION 14. DISPUTES

Differences, disputes and disagreements between the Contractor and the County arising under or out of the Contract will be brought to the attention of the County at the earliest possible time so that the matter may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County’s contract representative or designee. All rulings, orders, instructions and decisions of the County’s contract representative will be final and conclusive.

SECTION 15. CONFIDENTIALITY

The Contractor, its employees, subcontractors and their employees will maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of the Contract, except upon the prior express written consent of the County or an

order entered by a court of competent jurisdiction. The Contractor will promptly give the County written notice of any judicial proceeding seeking disclosure of such information.

SECTION 16. CHOICE OF LAW, JURISDICTION AND VENUE

- 16.1 The Contract will be construed as having been made and delivered within the State of Washington, and it is agreed by each party that the Contract will be governed by the laws of the State of Washington, both as to its interpretation and performance.
- 16.2 Any action at law, suit in equity or other judicial proceeding arising under or out of the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington.
- 16.3 If the Contractor is a federally recognized Indian tribe, the following provision applies: Each party hereby grants a limited waiver of sovereign immunity to suit solely with respect to claims made against it by the other party relating to, or arising under, this Contract. Each party hereby voluntarily consents to the personal jurisdiction of the Superior Court of the State of Washington, County of Kitsap, solely for this purpose.

SECTION 17. MISCELLANEOUS

- 17.1 **Authority.** The Contractor certifies that it has the legal authority to apply for the funds covered under this Contract.
- 17.2 **No Waiver.** The parties agree that the excuse or forgiveness of performance, or waiver of any provisions of the Contract, does not constitute a waiver of such provision or future performance, or prejudice the right of the waiving party to enforce any of the provisions of the Contract at a later time.
- 17.3 **Remedies.** All remedies provided for in this Contract will be construed as cumulative and will be in addition to any other remedies provided by law.
- 17.4 **Tax Payments.** The Contractor will pay all applicable federal, state and local taxes, fees (including licensing fees) and other amounts.
- 17.5 **Conflict of Interest.** The Contractor will avoid organizational conflicts of interest or the appearance of a conflict of interest in disbursing contract funds for any purpose and in the conduct of procurement activities. The Contractor will ensure that its subcontractors, employees, agents or representatives avoid conflicts of interest or the appearance of a conflict of interest in disbursing contract funds for any purpose and in the conduct of procurement activities.
- 17.6 **Personnel Removal.** The Contractor agrees to remove immediately any of its subcontractors, employees, agents or representative from assignment to perform services under the Contract upon receipt of a written request to do so from the County's contract representative or designee.
- 17.7 **Records Inspection and Retention.** The County may, at reasonable times, inspect the books and records of the Contractor relating to the performance of the Contract. The Contractor will retain for audit purposes all Contract-related records for at least six (6) years after termination of the Contract.
- 17.8 **Publication.** The Contractor will not publish any results of the works performed under this Contract without the advance written permission of the County.
- 17.9 **County Review.** The County may, at reasonable times, review and monitor the financial and service components of the program as established by the Contractor by whatever means are deemed expedient by the Board of County Commissioners, or its

respective delegates. Such review may include, but is not limited to, with reasonable notice, on-site inspection by County agents or employees, and the inspection of all records or other materials which the County deems pertinent to the Contract and its performance, except those deemed confidential by law.

- 17.10 **Successors and Assigns.** The County, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators and assigns to the other party to the Contract and to the partners, successors, administrators and assigns of such other party in respect to all covenants to the Contract.
- 17.11 **Severability.** If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 17.12 **Suspension, Debarment, and Lobbying.** The Contractor shall certify, on a separate form (Attachment F), that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency. Also, the Contractor, on a separate form (Attachment G), will certify that it does not use Federal funds for lobbying purposes. Both forms are attached to this Contract.
- 17.13 **Attachments.** The parties acknowledge that the following attachments, which are attached to this Contract, are expressly incorporated by this reference:
- Attachment A – Service Definitions
 - Attachment B – Special Terms and Conditions
 - Attachment C – Service Information Form
 - Attachment D – Criteria for Evaluation
 - Attachment E - DRW Access Agreement
 - Attachment F - Certification Regarding Debarment, Suspension, and Other Responsibility Matters
 - Attachment G – Certification Regarding Lobbying
 - Attachment H – Confidentiality and Data Security

In the event of an inconsistency between these General Terms and Conditions and the attachments, precedence shall be given in the following order: (1) General Terms and Conditions; (2) Special Terms and Conditions; (3) Service Information Form; (4) Criteria for Evaluation.

- 17.14 **Whole Agreement.** The parties acknowledge that the Contract is the complete expression of their agreement regarding the subject matter of the Contract. Any oral or written representations or understandings not incorporated in the Contract are specifically excluded.
- 17.15 **Notices.** Any notice will be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the contract representatives provision of the Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day.

Dated this 6th day of July, 2023.

CONTRACTOR
Cares of Washington

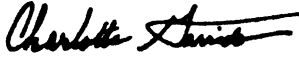


Lars Nowack, CEO



Dated this 24 day of July, 2023.

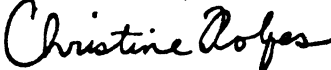
KITSAP COUNTY BOARD OF COMMISSIONERS



Charlotte Garrido, Chair

NOT PRESENT

Katherine T. Walters, Commissioner



Christine Rolfes, Commissioner

ATTEST:



Dana Daniels, Clerk of the Board

Approved as to form by the Prosecuting Attorney's Office

ATTACHMENT A: SERVICE DEFINITIONS BARS

Child Development Services (Birth to Three)

Child Development Services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. Services may include specialized instruction, speech-language pathology, occupational therapy, physical therapy, assistive technology, and vision services. Services are provided in natural environments to the maximum extent appropriate.

Individual Supported Employment

Individual Supported Employment services are a part of a Client's pathway to employment and are tailored to individual needs, interests, abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job. (per Individual Employment and Billable Activities)

Individualized Technical Assistance Services

Individualized Technical Assistance services are part of a Client's pathway to employment or community inclusion. This service provides assessment and consultation to the employment provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment and community inclusion services for clients who have not yet achieved their goal.

Community Inclusion

Individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. (per Community Inclusion Billable Activities) These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working age individuals who have received nine months of employment support.

Infrastructure Projects

Projects in support of Clients (services not easily tracked back to a specific working age client) or that directly benefit a Client(s) but the Client

is not working age. Examples include planning services like benefits planning and generic job development e.g. "Project Search."

Start-up Projects

Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administrative support.

Partnership Projects

Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn 21.

ATTACHMENT B: SPECIAL TERMS AND CONDITIONS

SECTION 1. Definitions

- 1.1 **“Acuity Level”** means the level of Client’s abilities and needs as determined through the DDA assessment.
- 1.2 **“AL TSA Web Access (AWA)”** means a web-based portal to the Developmental Disabilities Administration CARE system designed to support county services for DDA clients.
- 1.3 **“Additional Consumer Services”** refers to indirect client service types as follows:
- 1) **“Community Information and Education”**: Activities to inform and/or educate the general public about developmental disabilities and related services. These may include information and referral services; activities aimed at promoting public awareness and involvement; and community consultation, capacity building and organization activities.
 - 2) **“Training”**: To increase job related skills and knowledge of staff, providers, volunteers, or interning students in the provision of services to people with developmental disabilities. Also, to enhance program-related skills of board or advisory board members.
 - 3) **“Other Activities”** reserved for special projects and demonstrations categorized into the following types:
 - A. **Infrastructure projects**: Projects in support of clients (services not easily tracked back to a specific working age client) or that directly benefit a client(s), but the client is not of working age. Examples include planning services, like benefits planning, and generic job development; e.g. “Project Search.”
 - B. **Start-up Projects**: Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administration support.
 - C. **Partnership Project**: Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn 21.
- 1.4 **“ADSA”** means Aging and Disability Services.
- 1.5 **“Budget and Accounting Reporting System (BARS)”** means a master classification of balance sheet, revenue, and expenditure/expenses accounts.
- 1.6 **“Client”** means a person with a developmental disability as defined in Chapter 388-823 WAC who is currently eligible and active with the Developmental Disabilities Administration or is an identified PASSR client.

1.7 **“Competitive Integrated Employment”** means work performed by a Client on a part time or full-time basis, within an integrated setting within the community that meets HCBS setting requirements. The Client must meet be compensated at minimum wage or higher, using the higher federal, state or local rate, and at a rate comparable to the wage paid to non-disabled workers performing the same tasks, including the same benefits and opportunities for advancement.

1.8 **“Consumer Support”** refers to direct client service types as follows:

1) **“Community Inclusion” or “CI”**: means individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working-age individuals who have received nine months of employment support.

2) **“Child Development Services” or “CDS”**: Birth to three services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. Services may include specialized instruction, speech-language pathology, occupational therapy, physical therapy, assistive technology, and vision services. Services are provided in natural environments to the maximum extent appropriate.

3) **“Individual Supported Employment” or “IE”**: Services are part of a Client's pathway to employment and are tailored to individual needs, interests, abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job.

4) **“Individualized Technical Assistance” or “ITA”**: Services are part of a Client's pathway to individual employment or community inclusion. This service provides assessment and consultation to the employment provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment services or community inclusion for Clients who have not yet achieved their goal.

1.9 **“Contractor”** means a vendor whom the county contracts for services.

- 1.10 **“County”** means the political subdivision of the state of Washington and the county or counties entering into this Program Agreement.
- 1.11 **“DDA Case Resource Manager (CRM)”** means case manager for DDA clients.
- 1.12 **“County Service Authorization (CSA)”** means authorization of county services.
- 1.13 **“Developmental Disabilities (DD)”** means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains the age of eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.
- 1.14 **“Developmental Disabilities Administration (DDA)”** means a division within DSHS.
- 1.15 **“DDA Regional office (DDA Region)”** means the regional DDA office that supports DDA clients.
- 1.16 **“DRW”** means Disability Rights of Washington (Formally known as Washington Protection and Advocacy System, WPAS).
- 1.17 **“DSHS”** means the state Department of Social and Health Services.
- 1.18 **“Division of Vocational Rehabilitation (DVR)”** means a division within the Department of Social and Human Services.
- 1.19 **“Medicaid Home and Community Based Services (HCBS)”** means services occur in the Client’s home rather than institutions or other isolated settings. These programs serve a variety of targeted population groups, such as people with intellectual or developmental disabilities, physical disabilities, and/or mental illnesses.
- 1.20 **“Preadmission Screening and Resident Review (PASSR)”** means individuals with intellectual disabilities or related conditions (ID/RC) who have been referred for nursing facility (NF) care.
- 1.21 **“Person Centered Service Plan (PCPS)”** means a document that authorizes and identifies the DDA paid services to meet a Client’s assessed needs. Formally referred to as the Individual Support Plan.
- 1.22 **“Quality Assurance”** means an adherence to all contract requirements, including DDA policy 6.13, Provider Qualifications for Employment and Day Program Services, DDA Guiding Values, County Guide to Achieving

Developmental Disability Administration's Guiding Values and the Criteria for Evaluation, as well as focus on reasonably expected levels of performance, quality and practice.

- 1.23 **"Quality Improvement"** means a focus on activities to improve performance above minimum standards and reasonably expected levels of performance, quality and practice.
- 1.24 **"RCW"** means Revised Code of Washington.
- 1.25 **"Service Provider"** is a qualified Client service vendor who is contracted to provide Employment and Day Program services.
- 1.26 **"WAC"** means Washington Administrative Code.

SECTION 2. Credentials and Minimum Requirements

- 2.1 The Contractor will comply with the Developmental Disabilities Administration's Policy 6.13, Program Provider Qualifications.
- 2.2 **Home and Community Based Waiver Services assignment of Medicaid Billing Rights:** The Contractor agrees to assign the Developmental Disabilities Administration its Medicaid billing rights for services to DDA clients eligible under the Title XIX program in this agreement.
- 2.3 **Single State Medicaid Agency-DSHS.** DSHS, as the single state Medicaid Agency, has administrative authority for Title XIX coverage of services for people with developmental disabilities per 42 CFR 431.10. The County only has responsibility for services covered in this agreement.
- 2.4 **Qualified Board Members:** The Contractor, if it has a board, shall include members knowledgeable about developmental disabilities. The Contractor shall assure that potential conflict of interest (real or apparent) will not arise. Such a conflict will arise when a Board member is a guardian, legal representative, family member or other decision maker for the client. The Contractor shall document specific measures taken to ensure a conflict of interest does not exist.
- 2.5 **Background and Criminal History Check:** The Contractor shall ensure a background criminal history clearance is required every three years for all employees, subcontractors, and/or volunteers who may have unsupervised access to vulnerable DSHS clients, in accordance with RCW 43.43.830-845, RCW 74.15.030, and Chapter 388. WAC. If the entity elects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised contact with vulnerable adults, as defined in Chapter 74.34 RCW, the County shall deny payment for any subsequent services rendered by the individual provider. The

Contractor shall utilize DSHS Background Check Central Unit (BCCU) to obtain background clearances.

- 2.6 **Reporting Abuse and Neglect:** The Contractor is a mandated reporter under RCW 74.34.020 (13) and must comply with the reporting requirements described in RCW 74.34.035, .040 RCW, and 26.44 RCW. If the Contractor is contacted by DSHS that a Contractor is cited or on the registry for a substantiated finding, then that associated staff will be prohibited from providing services under this contract.

The Contractor will promptly report to DSHS per Policy 5.13 Protection from Abuse and Policy 6.08 (mandated reporting Requirements for Employment and Day Program Services Providers), incorporated by reference, if:

- A. They have reasonable cause to believe that abandonment, abuse, financial exploitation or neglect (as defined in RCW 74.34.020) of a person who has a developmental disability (as defined in RCW 71A.10.020) has occurred.
- B. If they have reason to suspect that sexual or physical assault of such a person has occurred, they shall also immediately report to the appropriate law enforcement agency.

- 2.7 **Duplicative Funding.** Client services shall not be reimbursed under this Agreement when the same services are paid for under the Rehabilitation Act of 1973, as amended in 1993 (DVR), P.L. 94-142 (Public Education), or any other source of public or private funding.

- 2.8 **Compliance with Law, Rules and Regulations.** The Contractor agrees to abide by the terms of the Developmental Disabilities Administration Policy Manual as applicable; available at website: <http://www.dshs.wa.gov/dda/county-best-practices>.

DDA Policies: 4.11 County Services for Working Age Adults, 5.05 Limited English Proficiency (LEP) Clients, 5.06 Client Rights, 5.13, Protection From Abuse: Mandatory Reporting, 5.14 Positive Behavior Support, 5.15 Use of Restrictive Procedures, 5.17 Physical/Manual Intervention Techniques, 6.08 Mandatory Reporting Requirements for Employment and Day Program Providers, 6.13 Provider Qualifications for Employment and Day Program Services, 9.03 Employee Protection from Bloodborne Pathogens, 12.01 Incident Management, 15.03 Community Protection Standards for Day/Employment Programs; 15.19 Positive Behavior Support for Children and Youth; 5.20 Restrictive Procedures and Physical Interventions with Children and Youth

WACS: 388-825, Developmental Disabilities Administration Service Rules; 388-06, Background Checks; 388-823, Developmental Disabilities Administration Intake and Determination of Developmental Disabilities; 388-845-0001,0030,

0210,0215,0220,0600-0610,1400-1410,2100,2110, Developmental Disabilities Administration Home and Community Based Waivers; 388-828, Developmental Disabilities Administration (DDA) Assessment; 296-24, General Health and Safety; 296-62, General Occupational Health Standards

RCWS: 43.43.830-845 Background Checks; 71.A.14.070 Confidentiality of Information; 49.17, Washington Industrial Safety and Health Act; 26.44 Abuse of Children; 74.34 Abuse of Vulnerable Adults; 44.04.280, Respectful Language.

County Guide to Achieve Developmental Disability Administration's Guiding Values

DDA Guiding Values

Criteria for Evaluation

DDA Guidelines for Community Assessments within Employment and Vocational Programs

Budgeting, Accounting and Reporting System (BARS), Developmental Disabilities Administration

Disability Rights of Washington Access Agreement

Any other requirements established by the Department of Social and Health Services, the County, and rules and regulations promulgated thereunder, and rules and regulations of the state and federal government as applicable, which control disposition of funds granted under this Work Order, and any subcontract.

SECTION 3. Statement of Work

- 3.1 **Number of People Served:** The number of people served shall be determined by County Service Authorizations. The number of people served may fluctuate as people enter/leave the Contractor's service over the contract period.
- 3.2 **Limitation to the Waiver Services:** The Contractor will act in accordance with WAC 388-845 by monitoring the client's yearly waiver limits for consumer Employment or Day support services.
- 3.3 **Direct Client Services and Program Outcomes:** The Contractor will provide services as defined and outlined in the Service Information Forms. An Individual Support Plan will be developed for each person referred to the Contractor with a County Service Authorization for IE and CI services that reflect the individual's preferences. Each plan will contain the minimum elements outlined in Attachment D, Criteria for Evaluation. The Individual Support Plan should be developed

within 60 days of a participant beginning services and updated at least annually or more frequently if appropriate. The Contractor will provide a copy of the participant's Individual Support Plan to the respective CRM, County staff, guardian and others as appropriate.

Prior to beginning services, the Contractor will clearly communicate the maximum service hours the client can expect to receive. The Contractor will also communicate the service hour information to the County. If a change occurs in the maximum service hours expected, the client, the client's DDA Case Resource Manager and County staff will be informed prior to the change.

The client's DDA PCSP is the driver for the service. The AWA County Service Authorization and updated Planned Rates information will not exceed the client's DDA PCSP maximum listed service hours. The amount of service the client receives should match AWA Planned Rates and County Service Authorization information.

Six-month progress reports describing the progress made towards achieving Client's goal(s) will be provided by the Contractor to the respective CRM, participant, County staff and/or guardian, if any, within 30 days following the six-month period. The client six-month progress reports will also include the client service hours received by the Contractor. The report will be provided on an on-going, six-month interval within 30 days following the six-month period of client's annual plan date. The report will summarize activities and outcomes made towards the Client's individualized goal(s).

All clients will be contacted by their Contractor according to client need, and at least once per month.

- 3.4 Employment and day services must adhere to the Home and Community Based settings requirements of 42CFR 441.301 (c)(4), including:
 - a. The setting is integrated in the greater community and supports Client full access to the greater community;
 - b. Ensures the Client receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;
 - c. Provides opportunities to seek employment and work in competitive integrated settings; and
 - d. The setting facilitates individual choice regarding services and supports, and who provides them.

- 3.5 For Individual Employment where the service provider is also the client's employer, long-term funding will remain available to the service

provider/employer for six months after the employee/DDA client's date of hire. At the end of the six month period, if the DDA client continues to need support on the job, another service provider who is not the employer of record must provide the support unless the County issues prior written approval for the service provider to continue to provide long-term supports, if needed. If the County approves the continuation of long-term supports where the service provider is also the Client's employer, the County will regularly monitor these positions to assure fading efforts occur when appropriate and any potential conflict of interest is addressed.

- 3.6 **Utilization of DVR, PASS and IRWE:** In developing employment support plans for individuals with developmental disabilities, the Contractor shall utilize Division of Vocational Rehabilitation (DVR) per the DVR/DDA MOU, Social Security work incentive programs, such as Plans for Achieving Self Support (PASS) and Impairment-Related Work Expense (IRWE), for those who are programmatically eligible.
- 3.7 **Compliance with Confidentiality and Data Security Policies.** The Contractor shall take any necessary and reasonable steps to comply with the Confidentiality and Data Security Policy incorporated by reference herein.
- 3.8 **Contractor Grievance Process and Procedures.** The Contractor will incorporate the elements identified in the Criteria for An Evaluation System, Developmental Disabilities, (Attachment D) into their Grievance Process/Procedures, including a review of grievances by the Contractor's Board of Directors as appropriate.
- 3.9 **Contractor Conflict of Interest Process and Procedures.** The Contractor will develop a plan that addresses potential conflict of interest(s) when applicable as outlined in Policy 6.13, Program Provider Qualifications. A copy of the plan will be provided to County staff for review and approval.

SECTION 4. Evaluation

- 4.1 **Contractor Evaluation System.** The Contractor shall complete and have available for review a Service Evaluation System. The evaluation shall include the Criteria for an Evaluation System, quality assurance and quality improvements. A copy of such Service Evaluation System shall be provided upon request to the County for review and approval.
- 4.2 **Program Evaluation.** The County shall have the right to periodically evaluate the services delivered to assess compliance with this County Program Agreement. The County shall conduct at least one on-site visit that may include DDA Regional Staff to each contractor during the period of this Program Agreement. The County shall maintain written documentation of all evaluations

and on-site visits. Copies of such documentation will be provided to the Contractor and upon request, to the DDA Office.

SECTION 5. Billing and Payment

- 5.1 **Approval of Fees-County Responsibility:** The County reserves the right to approve fees/rates paid to the Contractor for the service(s) being provided under this agreement.
- 5.2 **Work Order Budget.** The County shall pay the Contractor allowable, allocable and reimbursable costs, as defined in the DDA Budgeting Accounting and Reporting System Manual Supplement. Fiscal Year (FY) reimbursement for FY 24 shall not exceed the revenue for the FY revenue listed on the County Service Authorizations. Furthermore, these payments shall not exceed the Contractor's actual reimbursable cost for the service.
- 5.3 **Compliance with BARS Policies.** The Contractor shall take any necessary and reasonable steps to comply with the currently effective DDA BARS Supplement Manual incorporated by reference herein.
- 5.4 **Monthly Vouchers with Documentation.** All requests for reimbursement by the Contractor for performance hereunder must be submitted on an invoice signed by the Director or designee. The AWA documentation is also required for reimbursement via electronic transmission (e-mail attachment). The Contractor may submit a combined claim for all programs/services covered by this agreement, provided the claim for each individual is separately identified.
- 5.5 **A claim for each individual is made on the AWA system documents by indicating the number of service units delivered to each individual listed, and the fee per unit.** A unit is defined as:
 - A. An "Hour" which is at least fifty (50) minutes of direct service. Partial hour to the quarter may be recorded; and
 - B. A "Month" represents a minimum of one (1) service visit, which is at least fifty (50) minutes of direct service for Child Development Services (CDS) reimbursement.
- 5.6 **Timeliness of and Modification to Billings.** The County must receive all initial invoices with documentation within ten (10) calendar days following the last day of the month for which reimbursement is claimed. If an invoice or required documentation is incorrect, it will be returned to the Contractor. The Contractor can expect to receive payment from a correct invoice and documentation within thirty days from time of receipt by the County. Corrected invoices and documentation will be accepted throughout the period of the contract as long as they are received within sixty (60) calendar days of the associated fiscal year,

unless an extension is approved by the County. The County agrees to provide instruction and training to the Contractor on the use of the AWA system.

- 5.7 **Internal Control.** The Contractor shall establish and maintain a system of internal control systems that includes written policy/procedural manuals for information systems, personnel, and accounting/ finance to ensure the efficient and proper processing and use of contract funds. The manuals should provide sufficient detail such that operations can continue should staffing change or absences occur. The Contractor should be able to demonstrate the ability to safeguard public funds including maintaining books, records, documents and other materials relevant to the provision of goods and services.

SECTION 6. NON-COMPLIANCE

- 6.1 **Recovery of Fees.** If the Contractor bills and is paid fees for services that the County later finds were (a) not delivered or (b) not delivered in accordance with applicable standards, the County shall recover the fees for those services and contractor shall fully cooperate during the recovery.
- 6.2 **Corrective Action Process.** If the County Contract Administrator finds indications of non-compliance during the Reports on Numbers Served and Outcomes or learns that the Contractor is out of compliance with any of the other terms or conditions of this contract, the following process will be pursued by designated County staff.
- A. A corrective action plan, if required, will be initiated by County staff with the Contractor.
 - B. If the above process does not result in a resolution acceptable to the County, staff may contact the Contractor for the purpose of official, verbal notification of non-compliance and to establish a date when representatives of the Contractor and County shall discuss the areas of non-compliance and attempt to resolve the issues.
 - C. Within five (5) working days of the verbal notification, the County will provide the Contractor, via certified mail, a written summary of the areas of non-compliance.
 - D. Within twenty (20) working days of the date the written notification is mailed, a discussion shall be held between the County and Contractor staff about the areas of non-compliance.
 - E. If the County and the Contractor cannot agree on a corrective action plan within ten (10) working days of the discussion described in the previous paragraph, the County shall withhold payment related to the area(s) of

non-compliance, unless a written, time-limited extension of the ten (10) day period is issued by the County.

- F. The evaluation procedure and corrective action process outlined above shall not replace the dispute resolution process outlined in the Basic Interagency Agreement with the Contractor. It is a precursor to that process.
- G. Nothing in this section shall preclude audits by other duly authorized representatives of the County, the State Auditor's Office or federal officials so authorized by law, nor shall it preclude the recoupment of overpayments identified through those audit procedures.

SECTION 7. CONTRACTING/SUB-CONTRACTING

- 7.1 **County Approval of Subcontractors.** Subcontracting for direct services is not allowed under this program agreement.

SECTION 8. DSHS/DRW ACCESS AGREEMENT

- 8.1 The DRW February 27, 2001 Access Agreement with DDA is incorporated by reference. The Contractor assures that it and its subcontractors have reviewed the Access Agreement. The agreement covers DRW access to individuals with developmental disabilities, clients, programs and records, outreach activities, authority to investigate allegations of abuse and neglect, other miscellaneous matters, and is binding for all providers of DDA contracted services.

SECTION 9. AUDITING AND COST RECOVERY

- 9.1 **Audit Requirements.** Independent Audits will be submitted annually to the Kitsap County DD Contract Administrator in the following manner:

The Contractor shall acquire a financial audit by an independent auditing firm to determine, at a minimum, the fiscal integrity of the financial transactions and reports of the Contractor. Copies of the audit and management letter shall be submitted to the County Human Services Department within nine months of the end of the Contractor's fiscal year.

The Contractor shall provide an independent audit of the entire organization, which:

- A. Is performed by an independent Certified Public Accountant, the Washington State Auditor's Office, or another entity, which the County and

the Contractor mutually agree will produce an audit which meets the requirements described in items B and C below.

- B. Provides statements consistent with the guidelines of AICPA SOP 78-10, Reporting for Other Non-Profit Organizations.
- C. Is performed in accordance with generally accepted auditing standards and with Federal Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, and meeting all requirements of OMB Circular A-133, as applicable for agencies receiving federal funding in the amount of \$750,000 or more during the fiscal year.
- D. The Contractor shall submit one (1) copy of the audit and the management letter directly to the County immediately upon completion. The audit must be accompanied by documentation indicating the Contractor's Board of Directors has reviewed the audit.

9.2 **Maintenance of Records.** The Contractor shall maintain all books, records, documents, reports, and other evidence, which sufficiently and properly reflect all direct and indirect costs related to the performance of this contract. The Contractor will keep all client records, reports, and documents a minimum of six (6) years for clients to be eligible under Title XIX. These records shall be subject to inspection, review or audit by personnel of both parties and other personnel duly authorized by the County and the Office of the State Auditor. In the event of litigation, unresolved audits and/or unresolved claims, the Contractor agrees to retain all records, reports and other documentation until all such litigation, claims and audits have been resolved.

9.3 **Suspension, Debarment, and Lobbying.** The Contractor shall certify, on a separate attachment form (Attachment F) that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any Federal debarment or agency. Also, the Contractor, on a separate form (Attachment G), will certify that it does not use Federal funds for lobbying purposes. Both forms are attached to this Contract.

ATTACHMENT C: SERVICE INFORMATION FORM (7/1/23)

Cares of Washington

INDIVIDUAL SUPPORTED EMPLOYMENT

Individual Supported Employment services are a part of Client's pathway to employment and are tailored to individual needs, interests, and abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job.

ESTIMATED NUMBER OF PEOPLE TO BE SERVED:

The number of people served is determined by the issuance of County Service Authorizations. The number of people served will fluctuate as people choose to enter or leave the Contractor's service over the contract period. It is estimated that Cares of Washington will serve between ten (10) and twenty (20) individuals in this category.

TARGETED OUTCOMES/GOALS:

An Individual Support Plan (including measurable outcomes) will be developed for each person referred to the Contractor with a County Service Authorization. Outcomes should be in accordance with the Criteria for Evaluation (<http://www.dshs.wa.gov/dda/county-best-practices>) and incorporate County Guide to Achieve Developmental Disability Administration's Guiding Values, Role of Employment, (<http://www.dshs.wa.gov/dda/county-best-practices>). The plan must be tailored to promote the employment outcomes that meet the desires of the client. The plan will be reviewed at a minimum of every six (6) months and be rewritten as needed in order to meet the client's goals for the individual employment program. Provided services will relate to the client's individually identified goal(s) as outlined in their plan, and the semi-annual reports will demonstrate progress made on identified goals of the previous six (6) months.

Staff will serve clients so that they will be supported to work towards a living wage. A living wage is the amount needed to enable a client to meet or exceed his or her living expenses. Clients should be supported to average 20 hours of community work per week, or 86 hours a month, with the ultimate goal being full-time employment and earning a living wage. However, each person's preferred hours of employment should be taken into consideration. The amount of service provided will be based on the client's demonstrated need, acuity level and work history per WAC 388-828.

For clients interested in pursuing self-employment, state-adopted self-employment guidelines, as applicable (<http://www.dshs.wa.gov/dda/county-best-practices>), will be followed for any client who owns and operates a business. In addition, at a minimum,

any self-employment venture must include a business plan, established benchmarks for financial gain, and show that progress is being made towards providing a living wage.

Sites utilized for community assessment activities will comply with the US Department of Labor Standards and applicable state standards as well as follow DDA Guidelines for Community Assessments with Employment and Vocational Programs. (<http://www.dshs.wa.gov/dda/county-best-practices>)

Service activities will be in accordance with Employment Activities – Strategies and Progress/Outcomes Measures (<http://www.dshs.wa.gov/dda/county-best-practices>). Supports provided should include training and support to the employee's employer and co-workers in each job placement to ensure jobs are maintained. This also includes the development of natural supports.

Information pertaining to wages, productivity, benefits and work hours shall be documented for each participant, including progress in achieving increased wages and work hours.

A written performance plan which describes program objectives and expected outcomes shall be developed. It shall include details regarding how and when objectives will be accomplished. At a minimum, the plan shall contain performance indicators that measure the percentage of people employed, the average number of hours worked per month, the number of new jobs starts, the number of job losses and reasons for job loss. The plan shall be evaluated at least biennially, revised based on actual performance, and demonstrate progress over time.

Evidence that services are provided in adherence to the Medicaid HCBS settings requirements of 42 CFR 441.530 (a)(1), including: is integrated in and supports full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; and provides opportunities to seek employment and work in competitive integrated settings. Settings that isolate people from the broader community or that have the effect of isolating them from the broader community of individuals that do not receive Medicaid HCB services are presumed not to be home and community based.

All clients receiving individual employment services shall be employed earning minimum wage or better within six (6) months. If a client is not employed earning minimum wage or better by the time six (6) months has elapsed, the Contractor will assure that the following activities have been taken:

- a) Review of the progress towards employment goals;
- b) Provide evidence of consultation with the family/client; and
- c) Development of additional strategies with the family/client, county staff, employment support staff and the DDA case manager. Strategies may include providing technical assistance, changing to a new provider, and/or providing additional resources as needed to support the client's pursuit of employment.

The additional new strategies will be documented for each client and kept in the client's file(s).

If after twelve (12) months the client remains unemployed, an additional review will be conducted. The Contractor will address steps outlined in the previous six (6) month progress report. When requesting to participate in community inclusion services, the client shall communicate directly with their DDA case manager, as the DDA Case manager is directly responsible for authorizing Community Inclusion Services.

Staff will have the opportunity to attend conferences and receive training.

BILLING:

This contract is fee-for-service. Individuals shall be billed at a rate of \$102 per unit, per month, from July 1, 2023 –June 30, 2024 unless a specialized rate is agreed upon by the agency, DDA Case Management and the County and the rate is documented on the County Service Authorization form. One (1) unit equals an "hour" which is at least fifty minutes of service. Partial hour to the quarter may be recorded.

Reimbursable activities are contained on the *Employment Phases and Billable Activities* document located at <http://www.dshs.wa.gov/dda/county-best-practices>.

The contractor will not be reimbursed for service hours/units provided above the maximum service hours/units documented on the client's DDA ISP or activities outside the scope of the *Employment Phases and Billable Activities* document.

Service or organizational improvement activities: With the County's prior approval, the County may elect to provide reimbursement to the Service Provider for approved expenditures for activities designed to increase the quality of services provided to clients with a focus on professional development, client engagement, and capacity.

The Contractor may bill up to a maximum of \$4,000 in the purchase of software, hardware and/or assistive technology or activities related to diversity, equity and inclusion efforts as it pertains to the support of individuals receiving IE and/or CI program services. The Contractor will maintain receipts of purchases that will be made available for review upon request by Kitsap County staff.

ATTACHMENT C: SERVICE INFORMATION FORM (7/1/23)

Cares of Washington

COMMUNITY INCLUSION SERVICES

Individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working age individuals who have received nine months of employment support.

ESTIMATED NUMBER OF PEOPLE TO BE SERVED:

The number of people served is determined by the issuance of County Services Authorizations. The number of people served will fluctuate as people choose to enter or leave the contractor's service over the contract period. It is estimated that Cares of Washington will serve between fifteen (15) and twenty-five (25) individuals per month in this program.

TARGETED OUTCOMES/GOALS:

An Individual Support Plan (including outcomes) will be developed for each client referred to the Contractor with a County Service Authorization that will be individualized and identifies the support needs of each client. Outcomes should be in accordance with the Criteria for Evaluation (<http://www.dshs.wa.gov/dda/county-best-practices>) and incorporate County Guide to Achieve Developmental Disability Administration's Guiding Values, Role of Community Inclusion, (<http://www.dshs.wa.gov/dda/county-best-practices>). The plan must be tailored to promote community integration and meet the desires of the client. The plan will be reviewed every six months, and be rewritten as needed in order to meet the client's goals for the community inclusion program. Provided services will relate to the client's individually identified goal(s) as outlined in their plan, and the semi-annual reports will demonstrate progress made on identified goals of the previous six months. Plan goals need to reflect information documented in the participant's DDA Support Intensity Scale (SIS) Cares Assessment in one or more areas of the subscales identified in Attachment D, Criteria for Evaluation, (<http://www.dshs.wa.gov/dda/county-best-practices>)

Community Inclusion services should ensure health and safety, promote positive image and relationships in the community, increase competence, and individual skill building. Services will focus on identifying client interests and developing strategies to connect people to their local communities. Service activities should provide the support needed for program clients to learn, practice, and apply life skills to develop relationships and actively engage in their communities.

Supports offered will teach clients to use the community and community resources as independently as possible, developing natural supports, fading agency staff support and promoting client independence.

Volunteer opportunities will comply with the US Department of Labor Standards and applicable state standards.

The Contractor will document:

1. Services provided will focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed.
2. Clients are assisted to take part in typical and integrated activities, events and organizations in the client's neighborhood or local community in ways similar to others of the same age. Plans should identify community places where the client's interests, culture, talent and gifts can be contributed and shared with others with similar interests. Plan activities may include participation in a volunteer job or membership at a community organization.
3. Clients are assisted to take part in activities on an individual basis. Plans should identify clubs, associations and organizations where a client can be a member and have decision-making capacities.
4. Opportunities are fostered to build and strengthen relationships between family members and members of the local community who are not paid to be with the person.

Evidence that services are provided in adherence to the Medicaid HCBS settings requirements of 42 CFR 441.530 (a)(1) including: is integrated in and supports full access to the greater community; and ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS. Settings that isolate people from the broader community or that have the effect of isolating them from the broader community of individuals that do not receive Medicaid HCB services are presumed not to be home and community based.

A written performance plan which describes program objectives and expected outcomes shall be developed. It shall include details regarding how and when objectives will be accomplished. At a minimum, the plan shall contain performance indicators that measure client participation in volunteer or other meaningful, individualized community inclusive activities. The outcome performance measures tracked should demonstrate progress in meeting plan goals over time.

Staff has the opportunity to attend conferences and/or receive training.

BILLING:

This contract is fee-for-service. Individuals shall be billed at a rate of \$61.36 per unit, per month, from July 1, 2023 –June 30, 2024 unless a specialized rate is agreed upon by the agency, DDA Case Management and the County and the rate is documented on the County Service Authorization form. One (1) unit equals an “hour” which is at least fifty minutes of service. Partial hour to the quarter may be recorded.

Reimbursable activities are contained on the *Community Inclusion Billable Activities* document located at <http://www.dshs.wa.gov/dda/county-best-practices>.

Community Inclusion service support hours will be based on the client’s community Inclusion acuity as determined per WAC through the client’s DDA PSPC. Clients receiving service hours above their assessed level of support or activities provided outside the scope of the *Community Inclusion Billable Activities* will not be reimbursed.

Service or organizational improvement activities: With the County’s prior approval, the County may elect to provide reimbursement to the Service Provider for approved expenditures for activities designed to increase the quality of services provided to clients with a focus on professional development, client engagement, and capacity.

The Contractor may bill up to a maximum of \$4,000 in the purchase of software, hardware and/or assistive technology or activities related to diversity, equity and inclusion efforts as it pertains to the support of individuals receiving IE and/or CI program services. The Contractor will maintain receipts of purchases that will be made available for review upon request by Kitsap County staff.

ATTACHMENT D: CRITERIA FOR EVALUATION

CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2023 CRITERIA FOR ALL SERVICES

A. SERVICES ACCORDING TO INDIVIDUAL NEED -- The service provider documents:

1. That services the client is receiving relate to the client's Individual Habilitation Plan (IHP) (ICF/ID), PASRR Level II Assessment, DDA Assessment including the Person-Centered Service Plan (PCSP) and/or Individualized Family Service Plan (IFSP).
2. A copy of the current annual DDA Assessment, Service Summary, and Employment Summary or PASRR Level II Assessment or IHP or IFSP if applicable, will be maintained in the client's file.
3. There is a County approved grievance process for clients that:
 - a) Is explained to clients and others in accordance with DDA Policy 5.02, Necessary Supplemental Accommodation;
 - b) Negotiates conflicts;
 - c) States advocates are available, and clients are encouraged to bring advocates to help negotiate;
 - d) Provides a mediation process using someone who is unaffected by the outcome if conflicts remain unresolved (a DDA Case Resource Manager may be included as an alternative option);
 - e) Prohibits retaliation for using the grievance process;
 - f) Includes a process for tracking and reporting grievances.
4. Clients and others, in accordance with DDA Policy 5.06, Client Rights, have been informed of their rights, what services and benefits may be expected from the program, the program's expectations of them, and if necessary, the client's family, guardian or advocate is also informed.

B. HEALTH AND SAFETY -- The service provider has a policy that addresses confidential / private information for and documents:

1. Incidents involving injury, health or safety issues are reported to DDA and the County reference DDA Policy 6.08, Mandatory Reporting Requirements for Employment and Day Program Services Providers.
2. Incident reports are tracked and analyzed for potential trends and patterns.
3. Mandatory reporting is done in accordance with Chapter 74.34 RCW, Abuse of Vulnerable Adults and Chapter 26.44 RCW, Abuse of Children.
4. Current emergency contact and medical information (medications, diet, allergies, etc.) needed during the hours of service is readily available for each client.

C. POLICIES PROTECTING INDIVIDUAL RIGHTS -- The service provider has policies that protect individual rights that include but are not limited to:

1. Respectful staff-to-client interactions;
2. A person's right to be treated with dignity, respect and free of abuse;

ATTACHMENT D: CRITERIA FOR EVALUATION

CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2023

3. A person's right to privacy; and
4. Safeguarding personal information.

D. ORGANIZATIONAL DESIGN -- The service provider documents:

1. The date policies are implemented or date they are revised.
2. A written performance plan which describes program objectives, expected outcomes, how and when objectives will be accomplished, and that the plan is evaluated at least biennially and revised based on actual performance. The performance plan must include performance indicators that address diversity, equity and inclusion efforts. Document progress on performance indicators identified in DDA Policy 6.13, Provider Qualifications for Employment and Day Program Services.
3. Direct service staff are trained and has experience in accordance with DDA Policy 6.13.
4. That it is able to account for and manage public funds compliance with Generally Accepted Accounting Principles "GAAP" provide financial statements within nine months subsequent to the close of the subcontractor's fiscal year. An agency, for-profit or non-profit, who receives in excess of \$100,000 in DDA funds during its fiscal year from the County, shall provide Certified Public Accountant reviewed or audited financial statements.
5. An administrative/organizational structure that clearly defines responsibilities.
6. Each employee has a current (within three years) DSHS background check in accordance with RCW 43.43.830-845, RCW 74.15.030 and WAC 388-825. Child Development Service providers may submit background checks directly to the BCS at DSHS or they may submit background checks to the Department of Children, Youth and Families, for processing by the DSHS BCCU.
7. Equal access to persons who do not speak or have a limited ability to speak, read, or write English well enough to understand and communicate effectively (reference DDA Policy 5.05, Limited English Proficient (LEP) Clients).

ATTACHMENT D: CRITERIA FOR EVALUATION

CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2023

CRITERIA FOR SPECIFIC SERVICES

E. CHILD DEVELOPMENT SERVICES (Birth to Three) -- The County evaluates, in collaboration with the Local Lead Agency, that service providers document:

1. The child and family received timely services. (Services are considered timely if they begin within 30 days of the start date on the signed IFSP unless documented that there was an exceptional family circumstance).
2. Services are in compliance with the natural environments criteria for IDEA, Part C and Washington State's federally approved Early Intervention Plan.
3. Training, experience, and expertise of staff meet the highest entry level requirements in Washington State for Early Intervention professionals and relate to the needs of the child.
4. Evaluation (eligibility), assessment (child and family need) and the Individualized Family Service Plan (IFSP) was conducted within 45 days of receipt of referral. (Referral is defined as the date the family resources coordinator or lead agency received referral)
5. The family was assisted to ensure the child obtained an evaluation by a multidisciplinary team.
6. Contractor received from the parent, in writing, consent for all activities related to the provision of Early Intervention Services in the family's native language or other mode of communication.
7. The IFSP was reviewed every six months with a new plan written annually.
8. Progress toward the child and family outcomes within the IFSP are assessed on an ongoing basis and documented at least annually.
9. Child and family outcomes within the IFSP are functional and based on the individualized needs of the infant or toddler and the concerns and the priorities of the family. Child specific outcomes reflect the child's participation in everyday routines and activities. Family specific outcomes address the capacity of the family to enhance their child's development.
10. Services and supports were provided, to the maximum extent appropriate for the individual child, in naturally occurring environments and occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for an infant or toddler in a natural environment.
11. A transition plan for each child participating in the early intervention program was developed at least 90 days prior to the child's third birthday.

F. ALL EMPLOYMENT SERVICES-- The service provider documents:

1. Adult Employment plans will include the information listed below and should be developed by the provider in collaboration with the Case Resource Manager, client and his or her family (the team). Initial plans will be completed within 60 days from date of service authorization and must be signed by the client and/or his or her guardian if any. Copies of the initial and subsequent revised plans will be distributed as appropriate to all team members. Plans will be reviewed and signed

ATTACHMENT D: CRITERIA FOR EVALUATION

CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2023

annually. All employment plans should address how the participant will pursue and maintain a community paid job, increased wages, and increased work hours towards a living wage.

- a) Current date;
 - b) Timeline for the plan;
 - c) Client's name first and last;
 - d) Client's ADSA ID;
 - e) Employment goal;
 - i. The preferred (job type) the participant wishes to obtain or maintain;
 - ii. The preferred wages/salary the participant wishes to earn;
 - iii. The number of hours the participant prefers to work;
 - iv. The agreed upon timeline to achieve the employment goal.
 - f) The client's skills, gifts, interests and preferred activities;
 - g) Measurable strategies and timelines (action steps and supports) to meet the employment goal;
 - h) Identification of persons and/or entities available to assist the client in reaching his/her employment goal (example: a family member, Vocational Rehabilitation services, etc.) and;
 - i) Identification of other accommodations, adaptive equipment and/or supports critical to achieve employment goal.
2. All services relate to the client's individually identified goal(s) as outlined in the employment plan.
 3. The identification and provision of supports necessary for job success have been provided to each client. Supports may include, but are not limited to, identification of resources necessary for transportation, job restructuring, work materials or routine adaptation, work environment modifications, identification of job counseling needs, etc.
 4. Supports, which include training and support to employers and co-workers, have been provided in each job placement to ensure jobs are maintained and fading is occurring. This also includes the development of natural supports.
 5. Employment service activities and the outcome of those activities are documented.
 6. Six-month progress reports describing the progress made towards achieving client's goal will be provided by the service provider to the Case Resource Manager, client, and/or guardian if any within 30 days following the six-month period.
 7. Training and support is provided as a part of the client's pathway to integrated employment in accordance with DDA Policy 4.11, County Services for Working Age Adults.
 8. Information about wages, productivity, benefits, and work hours for each client.
 9. Progress in achieving increased wages and work hours for each client.
 10. Evidence that services the agency provides adhere to the Medicaid HCBS settings requirements of 42CFR 441 530(a)(1) including: is integrated in the greater community and supports individuals to have full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; the setting provides opportunities to seek employment and work in competitive integrated settings; and the setting facilitates individual choice regarding services and supports, and who provides them.
 11. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

ATTACHMENT D: CRITERIA FOR EVALUATION

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G. GROUP SUPPORTED EMPLOYMENT-- The service provider documents:

1. Clients participating in Group Supported Employment shall be compensated in accordance with applicable State and Federal laws and regulations and the optimal outcomes of the provision of Group Support Employment services is permanent integrated employment at or above minimum wage in the community.
2. The direct service staff hours supporting the group.
3. Clients' identified goal(s) include pathway strategies leading to Individual Supported Employment.

H. INDIVIDUAL SUPPORTED EMPLOYMENT SERVICES-- The service provider documents:

1. Service is in accordance with the DDA Employment Activities – Strategies and Progress/Outcomes Measures document.
2. State-adopted self-employment guidelines are followed for any client who owns and operates a business. In addition, at minimum, any self-employment venture must include a business plan, established benchmarks for financial gain, and show that progress is being made towards providing a living wage.

I. COMMUNITY INCLUSION SERVICES -- The service provider documents:

1. Adult Community Inclusion plans will include information that identifies and addresses the individualized goal and support needs for each client. Plans must consider individualization, integration, and safety and should be developed by the provider in collaboration with the Case Resource Manager, client and his or her family (the team). Initial plans will be completed within 60 days from date of service authorization and must be signed by the client and/or his or her guardian if any. Copies of the initial and subsequent revised plans will be distributed as appropriate to all team members. Plans will be reviewed and signed annually. Plans will include the information listed below:
 - a) Current date;
 - b) Timeline for the Plan;
 - c) Client's name first and last;
 - d) Client's ADSA ID;
 - e) The client's skills, gifts, interests, and preferred activities.
 - f) The Community Inclusion goal. The goal needs to relate to the following (per the County Guide to Achieve Developmental Disability Administration Guiding Values):
 - i. Identify integrated community places where the client's interest, culture, talent, and gifts can be contributed and shared with others with similar interests.
 - ii. Identify typical community clubs, associations, and organizations where the client can be a member and have decision making capacities.
 - iii. Identify opportunities where the client can contribute to the community doing new and interesting things or things the client enjoys.
 - iv. Building and strengthening relationships between family members and members of the local community who are not paid to be with the person.
 - g) The Support Intensity Scale (SIS) subscale that most relates to the goal (Community living; Lifelong learning; Employment; Health & Safety; Social; and Protection & Advocacy)
 - h) Measurable strategies and timelines (action steps and supports) to meet the goal.

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CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2023

- i) Identification of persons and/or entities available to assist the participant in reaching his or her long-term goal.
 - j) Identification of other accommodations, adaptive equipment and/or conditions critical to achieve the goal.
2. All services relate to the client's individually identified goal(s) as outlined in their plan.
 3. Six-month progress reports describing the progress made towards achieving client's goal, service activities, and the outcome of those activities will be provided by the service provider to the Case Resource Manager, client, and/or guardian if any within 30 days following the six-month period.
 4. Each client is assisted to participate in typical and integrated activities, events and organizations in the client's neighborhood or local community in ways similar to others of same age.
 5. Each client is assisted to take part in activities on an individualized basis.
 6. The opportunity is provided for connection and relationship building between the client and people without disabilities who are not paid to provide services to the client. This also includes the development of natural supports and fading of paid staff support.
 7. Volunteer opportunities comply with U.S. Department of Labor standards and applicable state standards.
 8. Service activities and the outcome of those activities are documented.
 9. Evidence that services the agency provides adhere to the Medicaid HCBS settings requirements of 42CFR 441 530(a)(1) including: is integrated in and supports full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; and provides opportunities to seek employment and work in competitive integrated settings.
 10. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

ATTACHMENT E: DRW ACCESS AGREEMENT

ACCESS AGREEMENT BETWEEN
DISABILITY RIGHTS OF WASHINGTON
AND
THE DEVELOPMENTAL DISABILITIES ADMINISTRATION
DEPARTMENT OF SOCIAL AND HEALTH SERVICES.

This agreement is entered into by the Washington Disability Rights of Washington, (hereinafter DRW), the protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 1975, 42 U.S.C. sec. 6000, et seq. to investigate alleged incidents of abuse, neglect and rights violations of persons with developmental disabilities, and the Developmental Disabilities (Administration hereinafter DDA) of the Department of Social and Health Services, for the purpose of clarifying the rights and responsibilities of DRW with respect to its access; to individuals with developmental disabilities, clients, programs, and records.

The Department of Social and Health Services, specifically DDA, is responsible for providing services to, individuals with developmental disabilities, to the extent funding is available. In providing those services, DDA must protect the confidentiality of records and information regarding those individuals pursuant to the state and federal confidentiality laws.

DRW is charged by federal law to protect the legal and human rights of individuals with developmental disabilities. DRW provides legal and related. advocacy services to meet that obligation. DRW is also required to maintain the confidentiality of records and information regarding individuals with developmental disabilities consistent with 42 U.S.C. § 6000, et seq.

This agreement governs the access of DISABILITY RIGHTS OF WASHINGTON System to DDA employees who do not work in Residential Habilitation Centers (RHCs) and records maintained by DDA which are associated with individuals with developmental disabilities living outside of RHCs.

Federal laws and regulations also provide DRW with access to community programs and individuals with developmental disabilities served by DDA contract providers. DDA will work with community providers and DRW to arrive at an agreement governing access to DDA contracted programs and the people served by them.

I. General.

A. That all terms used in this agreement which we defined in the Developmental Disabilities Assistance and Bill of Rights Act of 1975, 42 U.S.C. § 6000, et seq., will have the meaning given to them in the Act, unless otherwise stated in this agreement

B. This agreement is intended to carry out the provisions of the Developmental Disabilities Assistance and Bill of Rights. Act of 1975, 42 U.S.C. § 6000, et. seq., and therefore, if this agreement is or becomes inconsistent. with the Act or the implementing regulations promulgated thereto, the terms of the Act and its implementing regulations will control.

C. If any provision of the agreement is held invalid, the parties intend that the remainder of the agreement not be affected.

II. Definitions.

A. Actively Aggressive: means that the individual with developmental disabilities is assaulting others or is threatening to do so, or the individual with developmental disabilities is actively harming him or herself

B. Client Services: means legal representation. The term does not include monitoring and observation.

C. Complaint: as defined in 45 CFR 1386, or hereinafter amended, includes, but is not limited to, any report or communication, whether formal or informal, written or oral, received by DRW including media accounts, newspaper articles, telephone calls (including anonymous calls), from any source alleging abuse or neglect of an individual with a developmental disability.

D. DDA Consumer: means an individual with a developmental disability receiving support from a program funded by DDA. The term includes DDA consumers who have died or whose whereabouts are unknown. See 45 CFR 1386.22(a)(2).

E. DDA Employees: includes those individuals who are employed by DDA or who volunteer for DDA to provide services to individuals with developmental disabilities.

F. Emergencies: means actions, omissions, or conditions that immediately threaten an individual with a developmental disability's health, life or well being.

G. Individual with a Developmental Disability: means individuals with developmental disabilities in the process of applying for or who have been found eligible for services from DDA.

H. Monitoring: means unaccompanied access to all residents of a program at reasonable times, which at a minimum shall include normal working and visiting hours to ensure program compliance with respect to the rights and safety of DDA consumers. See 45 C.F.R- §1386.22(g).

I. Probable Cause: as defined in 45 CFR 1386, or hereinafter amended, means a reasonable ground for belief that an individual with developmental disabilities has been, or may be, subject to abuse or neglect. The individual making such determination may base the decision on reasonable inferences drawn from his or her experience or training regarding similar incidents, conditions or problems that are usually associated with abuse and neglect.

J. Program: consistent with the definition of "facility" in 45 CFR 1386.19 includes any setting that provides care, treatment services and habilitation, even if only "as needed" or under a contractual arrangement. Programs include, but are not limited to, community living arrangements (e.g.. group homes. adult

family homes, congregate care facilities, boarding homes, individual residences and apartments), day programs, juvenile detention centers, nursing homes, homeless shelters, jails and prisons.

K. Provider: means those individuals/corporations with whom DDA contracts to provide services to DDA consumers, including but not limited to behavioral management services, family support services, vocational support services, sheltered employment, tenant support, intensive tenant support, alternative living, supported living, group home, adult family home, and congregate care facilities, chore services, Medicaid personal care and other personal assistance services.

L. Provider Employee: includes those individuals who are employed by a provider or who volunteer for a provider to provide services to individuals with developmental disabilities.

M. Records: as defined in 42 U.S.C. § 6042 and 45 CFR 1386(22)(b), or hereinafter amended, reports prepared by any state staff or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death that describe incidents of abuse, neglect, injury, or death occurring at a facility, investigative documents and discharge planning records. The term records also includes DDA consumer abuse and neglect committee reports but does not include peer review death reports, attorney work product, and records which are otherwise privileged under state or federal law.

N. Regular Program Activity: includes work assignments, education programs, therapy, health services, and daily living activities.

O. SOLA: means the DDA consumer support program, State Operated Living Alternative.

P. DRW Client(s):

(1) Individuals with developmental disabilities who do not have a guardian or legal representative and who indicate either orally or in writing to a DRW employee that they want DRW to represent them.

(2) Individuals with developmental disabilities without guardians who are unable to communicate their wishes regarding protection and advocacy services when DRW has received a complaint of abuse and/or neglect about the individual with a disability, or DRW determines that there is probable cause to believe that the individual with a developmental disability has been abused or neglected.

(3) Individuals with developmental disabilities who have a guardian or legal representative where the guardian or legal representative has consented to the representation in writing.

(4) Individuals with developmental disabilities whose guardian or legal representative fails or refuses to act on behalf of the individual with a developmental disability, despite being contacted by DRW, after a court has determined that the guardian has failed or refuses to act.

(5) A DRW client does not include those instances where DRW represents the guardian. DRW shall notify the DDA Regional Administrator or designee in writing that it represents the individual with developmental disabilities and forward a copy of that notice to either the guardian or the individual with developmental disabilities.

Q. DRW Employees: includes paid employees and volunteer employees as identified by DRW. Each employee shall carry DRW identification.

III. **Access to Programs.**

A. DDA will not obstruct DRW access to programs when consistent with the law and will ensure that SOLA and other programs staffed by DDA employees will comply with this agreement. For programs which contract with DDA to provide services, DDA will not obstruct DRW access to programs when consistent with the law, but DRW will assume, primary responsibility for enforcing its access rights. DRW will attempt to resolve access issues at the lowest level possible. In cases where there is danger of imminent or continuing harm to an individual with developmental disabilities, DRW will report the occurrence to DDA, consistent with the Washington State Bar Association Rules of Professional Responsibility and other applicable state law. In those cases and where there is a pattern of failure to provide access for DRW to a program or DDA consumers, DRW will report this failure to DDA, and DDA will respond by investigating the allegation of failure to provide access and will take appropriate actions.

B. DRW staff will identify themselves to any staff present when they arrive at a program by showing a DRW photo identification badge. DRW shall provide the DDA -director with a list of employee and their pictures by July 1, 1997, and DRW shall update this list as necessary.

C. DRW shall have access to SOLAs and other programs staffed by DDA employees as specified in this section. This agreement does not affect the right of an individual with a developmental disability served by such a program who owns or rents his or her own home to deny DRW access to programs or the residences of individuals who are served by programs.

D. DRW staff shall have access to all programs when DRW has received a complaint or has probable cause to believe than an incident of abuse, neglect, or other rights violation has occurred;

E. DRW staff shall have access to all living areas of SOLAs and other programs staffed by DDA employees during regular business hours for the purpose of providing information on legal rights and self advocacy to the

individuals with disabilities who participate in, the program. During the course of such access DRW staff shall be allowed to engage in informal discussions with the individuals with disabilities, out of the presence of DDA employees or others; in an area that affords privacy.

F. DRW staff may visit any location where residents are served by DDA employees, where the purpose is observation or monitoring compliance with respect to the rights and safety of service recipients (CFR 1386.22(g)(2)). Such observation and monitoring activities need not be limited to clients of DRW, and DRW staff shall not be required to schedule or give prior notice of such visits to DDA employees, provided that DRW has the permission of a DDA consumer. DRW staff shall be permitted to monitor the program without an accompanying DDA employee. DRW staff shall conduct all monitoring activities in a manner which is respectful of the privacy of the individuals with disabilities who reside in the monitored program.

IV. Access to Individuals with Developmental Disabilities.

A. DRW staff will be provided access to their clients in the same manner as such access is provided to privately retained and/or court appointed attorneys. DDA shall assist and support the professional relationship between DRW and its clients. Written consent for such access is not required.

B. DRW recognizes that all individuals with developmental disabilities have the right to refuse to talk with DRW, to have a third party present during the interview or to reschedule the appointment for a more convenient time. DRW shall advise their clients and other individuals with developmental disabilities with whom they have contact of these rights before each meeting. A person who does not wish to talk with DRW staff shall be allowed to communicate this directly and privately to DRW staff unless he or she overtly manifests fear of being alone with the DRW staff. When the individual with a developmental disability overtly manifests such fear by words or behavior, DRW shall respect that person's desires and not meet alone with that person.

C. DRW will encourage its clients and other individuals with developmental disabilities to notify DDA and/or providers of complaints regarding DDA services and to resolve those complaints through any existing dispute resolution process.

D. DRW staff shall comply with all safety and security requirements of DDA. DDA will communicate these requirements to DRW staff.

E. DDA employees shall not interfere with DRW staff in obtaining a private space for meetings between DRW staff and individuals with developmental disabilities. Private space does not mean a common area room or other location which would afford other residents and DDA employees open access to DRW employees in living areas or on the grounds. DDA employees shall respect the confidentiality needs of the individual with a developmental disability and DRW. Where an individual with a developmental disability indicates that he or she does not want to meet in a private space, DRW staff will respect this request.

F. DRW staff will not be required to schedule visits with DDA employees in advance of their visits. However, DRW staff may contact DDA employees to do so if access to a DRW client or other individual with a developmental disability will be facilitated due to the individual's daily activities.

G. DRW staff shall have the right to unaccompanied access to any SOLA or program staffed by DDA employees, and access to any individual DRW client or DD consumer they are authorized to serve, subject to the following limitations:

(1) While DRW need not notify the DDA employees prior to meeting with its client or DDA consumer, DRW agrees not to disturb a client or DDA consumer if the DRW employee arrives at the residence or other building in which the client or DDA consumer is served and the client or DDA consumer is engaged in regularly scheduled program activity. In such case, DRW staff will be to observe or otherwise verify the programming without disturbing it. If DRW staff presence disturbs or is objected to by the DRW client or any other DDA consumer who is present, DRW staff shall make arrangements to meet with the DRW client or DDA consumer at a later time. Where consulted prior to making an appointment, DDA employees will cooperate with DRW staff in making scheduling arrangements. The DRW employee shall not disturb nor interrupt the activity. If the activity is confidential, DRW shall obtain the client or DDA consumer's permission to observe the activity or shall respect the client or DDA consumer's right to privacy. DRW staff will then either wait until the activity is completed or reschedule the visit at a time that is mutually agreeable to DRW staff and its individual client or DDA consumer, no later than 48 hours later.

(2) If the DRW employee arrives for a meeting with a client or DDA consumer and the individual is actively aggressive, in programming to address this behavior, or receiving "one-to-one" supervision, in such a situation, DRW staff will be permitted to observe the individual from a safe distance or otherwise verify that the individual is actively aggressive. DRW staff will, then either:

(a) wait until the individual's aggressive behavior has stopped and be permitted to meet with the individual privately while DDA employees remain in viewing distance; unless such distance would place the individual with developmental disabilities at serious risk of harm based on that individual's documented behavioral issues; if the individual would be at serious risk of harm, DRW and DDA shall work cooperatively to address DRW need for confidentiality with the individual's need for safety; provided that any such interview does not interfere with the individual's Behavior Support Program, Individual Program Plan, Individual Service Plan, or other program plan, nor interfere with staffing needs for other individuals with developmental disabilities; or

(b) reschedule the visit at a time mutually agreeable to DRW and DDA employees, but no later than forty-eight (48) hours;

(c) if the DRW staff is notified that an individual is either actively aggressive or receiving one-to-one supervision and if knowing this the staff chooses to meet with the individual, DRW agrees to release, indemnify, and hold DDA, DSHS, the State and its employees, agents, officers, and servants harmless for any injuries that occur from any claims or cause of action asserted by any DRW employee or agent who is injured as a result of any act committed by an individual with developmental disabilities except that those circumstances where DDA employees willful misconduct is the proximate cause of the injury to DRW employee or agent. DRW agrees that its staff shall sign a statement to this effect prior to requesting to meet with any such individual. If the DRW staff refuses to sign such an agreement, DDA employees may deny the DRW staff access to the individual until such time as DDA employees determine that safety to the DRW staff is no longer an issue. When a DRW staff member elects to meet with an individual who is actively aggressive, it is neither negligent nor willful misconduct for a state employee to allow the meeting to take place.

H. All individuals with developmental disabilities who wish to contact DRW staff shall be provided uncensored access to writing materials, DRW address and toll-free telephone number, a stamped envelope, and/or access to a telephone for private conversations without monitoring by or permission from DDA employees.

I. SOLAs and programs staffed by DDA employees shall permit individuals with developmental disabilities to set appointments with DRW staff at times agreeable to both the individual with a developmental disability and DRW staff. If the DDA employees know that a meeting with a DDA consumer will be disruptive of the DDA consumer's regular program activity, DRW staff shall be informed of this and allowed to reschedule the appointment in order to meet with the DDA consumer so that the appointment does not disrupt his or her regular activity.

V. Access to Records of Individuals with Developmental Disabilities.

A DRW has access to records as provided in 42 U.S.C. § 6042, et. seq. DRW has legal authority to review an individual with developmental disabilities' records only when there is consent or, if a DDA consumer is unable to consent, there is a complaint or probable cause to believe a DDA consumer has suffered abuse or neglect. DRW has no general right to review records except in these circumstances.

B. Upon receiving a valid, written consent, DDA will have 48 hours in which to schedule an appointment with DRW so that it may come to the record location to review specified records. DDA will verify that DRW has received consent to view such records, or if the DDA consumer is unable to consent and there is no

guardian to consent, that there is a complaint or probable cause to believe, the DDA consumer has suffered abuse or neglect. DDA shall make the requested records within its possession available within five working days from the date the request is made.

C. DRW may access records of:

(1) any DDA consumer if he or she consents, or if he or she has a legal guardian with the power to consent for the DDA consumer and that guardian consents;

a) the DDA consumer or guardian shall give written authorization for access on a form approved by DRW and DDA jointly.

(2) any DDA consumer:

a) who by reason of his or her mental or physical condition is unable to authorize DRW to have access to their records;

b) who does not have a legal guardian, conservator or other legal representative, or for whom the legal guardian is the state; and

c) with respect to whom a complaint has been received by DRW or with respect to whom, as a result of monitoring or other activities there is probable cause to believe that such individual has been subject to abuse or neglect.

d) If records are requested pursuant to this section, the request shall be in writing and will state that the resident, by reason of his or her mental or physical condition is unable to authorize DRW to have access to his or her records, does not have a legal representative, and that a complaint has been received by DRW with respect to the DDA consumer or that there is probable cause to believe the resident has been subjected to abuse or neglect. The DDA case manager will make a determination regarding whether a DDA consumer is able to consent to access within 3 working days, except in case of an emergency.

(3) In the case of a resident who has a legal guardian, and upon request by DRW, DDA will provide DRW with the name, address and telephone number of the legal guardian by 5 p.m. the next business day so that DRW can contact such representative and offer its assistance. If the guardian has been contacted by DRW and failed or refused to act on behalf of the individual DRW has received a complaint sufficiently that sufficiently identifies the individual or DRW has probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy, DRW shall obtain court approval for such access.

a) If a guardian refuses to consent to allow DRW access to records, and DRW still wants access, DRW will file a lawsuit to access the records and allow a court to determine whether the guardian has failed or refused to act on behalf of the DDA consumer. DRW agrees to provide legal notice to DDA of any such proceeding. If the guardian refuses to provide written consent for DRW to access the records, DDA shall not make the records available absent a court order.

b) DRW shall attempt to contact the guardian to obtain consent. Unless an emergency exists, then DRW shall contact the standby guardian if one has been designated. If no standby guardian is appointed and the guardian is unavailable, and DRW determines that the DDA consumer is at risk of serious injury or death, DDA shall make the records available to DRW to review.

D. DRW staff may review the requested records within normal business hours in the building or room in which such records are provided. A DDA employee may remain in the room while the records are viewed. Under no circumstances may DRW staff remove the original records, or any part thereof, from the room where they are viewed.

E. DRW agrees to reimburse DDA for the costs of copies at the same rate charged for public disclosure requests, currently \$.15 per page. When feasible, copies will be provided on the day the copies are requested. If that is not possible, DDA will make the copies available within 10 days of the request.

F. DRW shall request a guardian information or access to DDA consumer records of the DDA Regional Administrator of the region in which the DDA consumer resides. Thereafter, their contact regarding that DDD consumer shall be the regional administrator, or his or her designee. DDA shall provide DRW a list with contact information for purposes of access to records. DDA agrees to update that list at least annually.

G. In order to access DDA records, DRW will send a written request directly to the DDA Regional Administrator or designee in custody of the records. In the request, DRW will identify the individual whose records it seeks. DRW need not identify the individual by name, but must sufficiently identify the individual so that the person reviewing the request can determine whose records are being sought. DRW will specify which records it wants and for which time periods. DRW will also indicate that it has received a complaint concerning the individual so that it has probable cause to believe the individual has suffered abuse or neglect. DRW need not further specify the nature of the complaint nor who made the complaint.

H. In the event DDA denies access to records pursuant to a request, DRW staff may request that the denial be in writing and include the reason for the denial.

I. DRW will limit its request to records it considers necessary to accomplish its investigation. DDA may request that DRW specifically identify the records that it is seeking if the request is too broad or voluminous.

VI. Outreach.

A. All individuals with developmental disabilities shall have access to DRW staff for the purpose of obtaining information about their legal rights and self-advocacy. DRW staff shall be allowed to engage in informal discussions with DDA consumers who wish to speak to them out of the presence of DDA employees in an area that affords privacy.

B. DRW may have regularly scheduled information/training sessions for DDA consumers and parents/guardians/family members regarding DRW'S services and individual rights. DDA employees may attend outreach and scheduled information sessions only with advance written permission of DRW staff.

C. DDA agrees to give DRW a list of all current DDA consumers and their addresses. DDA will provide DRW an updated list annually.

D. DDA agrees to provide DDA consumers with notice of DRW services at the time of application for DDA services. DRW will provide DDA with copies of their brochure and/or any other information they want DDA to distribute at that time.

E. DDA agrees to require contractors to comply with 42 U.S.C. §6000 et seq. and 45 C.J.F.R. Parts 1385-86 by including the requirement in contracts. Current contracts will be amended to include this requirement when they are renewed.

VII. Authority to Investigate Allegations of Abuse and Neglect

A. DRW shall have unaccompanied reasonable access to DDA consumers and facilities when necessary to conduct a full investigation of an incident of abuse or neglect. This access shall include the opportunity to interview any individual with a developmental disability, any DDA or provider employee, or any other person who might be reasonably believed by DRW to have knowledge of the incident under investigation; and to review what DRW is entitled to review pursuant to this agreement. DRW shall be permitted to do its own investigation of allegations of abuse or neglect regardless of any pending action or investigation by the State or any other individual or entity.

B. DRW investigations shall not interfere with any other ongoing investigation DRW employees shall not visit areas at times that would violate any person's right to privacy.

C. DDA shall allow and encourage all employees and providers to talk openly with DRW, employees. DRW will not ask staff to disrupt their work schedules or responsibilities to talk with DRW. Except in cases of emergency, DRW will schedule appointments with staff in advance.

D. While DDA and provider employees shall be encouraged to cooperate with DRW, employees have the right to refuse to talk with DRW. DRW shall notify employees of that right prior to any attempt to interview them.

E. Any complaint concerning DRW staff shall, be immediately brought to the attention of the DRW Executive Director or his or her designee. Upon receipt of a complaint, the DRW Executive Director or his or her designee shall conduct an investigation and submit a written response to the State within fourteen (14) days in an effort to resolve any complaints as expeditiously as possible. DDA reserves the right to file formal charges if the behavior places a DDA consumer's health or safety at risk.

F. DRW shall inform DDA and providers, in writing, of its findings and concerns upon completion of any investigation activity undertaken pursuant to its authority under 42 U.S.C. § 6000 et. seq., and the access rights granted to DRW in this agreement, in an effort to resolve DDA consumer complaints or concerns prior to commencing litigation, unless DRW believe that such delay would result in serious injury or harm to the DDA consumer

VIII. Implementation of the Agreement.

A. The DDA Assistant Secretary shall ensure that each supervisor will conduct an annual meeting with his or her staff to provide information regarding the parties' rights and responsibilities under this agreement. The DDA Assistant Secretary shall ensure that each employee of DDA has read and signed a copy of a form indicating that they have read this agreement at the time of hire, and at the time of his/her annual evaluation. DDA and DRW shall develop a mutually agreed to summary of this agreement for use in informing DDA employees of the parties, rights and responsibilities. When DDA and DRW develop and agree regarding the content of this summary, DDA employees shall be required to read the summary, rather than reading this agreement, and acknowledge that they read and understood the summary with a signature.

B. The agreement is effective as of the date it is signed.

C. DDA agrees that having an agreement in place that would govern DRW and DDA provider relationships is appropriate. This agreement will affect contractual relationships, so it will be negotiated with providers prior to implementation. This negotiation will take place during the 1997-1998 provider contract negotiations. DDA will request DRW review the proposed contract language prior to contract signing by DDA. The goal of this negotiation process will be to arrive at an agreement which implements the federal statutory and regulatory requirements in a manner consistent with the provision of quality, individualized services and supports to people with developmental disabilities living in the community.

D. The DDA Assistant Secretary will make changes as necessary to implement this agreement by September 1, 1997, and prior to implementing changes will confer with DRW.

E. DRW and DDA agree to work together to assist providers in becoming familiar with DRW access to programs. DDA agrees to host a forum in each region to familiarize providers with the access provisions. DRW agrees to make staff available as presenters at regional forums, and otherwise as mutually agreed to with providers. DDA will distribute to providers a summary of the access provisions. This summary will be prepared by DRW, and will be subject to the review and approval of DDA prior to distribution.

IX. Miscellaneous.

A. DRW agrees that its staff shall not give medical advice and shall not engage in the practice of medicine. It is DRW intent and purpose to give legal advice. For example, DRW will not tell DDA consumers not to take medication or that medications are wrong for them DRW will not discourage individuals with developmental disabilities from participating in programs or activities. DRW may explain DDA consumer legal rights including the right to informed consent, their right to be told of the risks and benefits of medication or medical procedures, their right to refuse to take medications and the procedure to follow if the DDA consumer does not wish to take medications, and their right to refuse to participate in experimental programs or research, all as guaranteed under state and federal law.

B. DRW agrees that: there are some DDA consumers who are identified as medically fragile or to have behavioral concerns that require constant monitoring. If DRW requests a meeting with such a DDA consumer and DDA determines that the DDA consumer cannot be left unsupervised with a DRW employee, a DDA or provider employee shall be present during any meetings. If DDA consumers are hospitalized due to medical conditions, DDA or provider employees may remain within viewing distance if necessary for the DDA consumer's health and safety. The employees will not interfere with the meeting except for medical reasons and will respect the DDA consumer's privacy to the extent possible given his or her medical needs.

C. This agreement delineates the usual process by which DRW and DDA will work together. In some situations, it may be necessary to amend these procedures. DRW and DDA may agree to modify these procedures as necessary for any particular situation,

X. Dispute Resolution.

A. DRW and DDA agree that informal resolution of disputes is preferred. If DRW staff and the DDA Regional Administrator or designee are unable to agree about an issue regarding interpretation or application of this agreement, they will request the DRW Executive Director and the DDA Assistant Secretary review the situation and attempt to resolve the disagreement.

B. The Directors Meeting and Mediation process are mandatory for both parties. The only exception to this term of the agreement is where DRW, in good faith, has probable cause to believe that there are exigent circumstances

warranting immediate access. Such circumstances are defined as "emergencies" as defined in the access agreements. In such cases, the DRW Executive Director or his or her designee shall contact the DDA Assistant Secretary or his or her designee; and/or Office of the Attorney General to attempt to resolve the dispute. If the exigent access dispute is not resolved by the end of the following business day, DRW may immediately take any necessary legal action, including seeking a temporary restraining order and preliminary injunction or an order to show cause in order to secure the necessary access without going through the ADR process discussed herein. When DRW does take such action, it shall give the Office of the Attorney General advance notice of such action by telephone and facsimile.

C. In the event that there is an access dispute regarding any aspect of the Access Agreements between DRW and DDA (Community), the aggrieved party shall send written notice to the director of the other party (e.g. DRW Executive Director, DDA Assistant Secretary, or their designees) of the dispute and the desire to meet to attempt to resolve the dispute. The DDA Assistant Secretary (or his/her designee) shall meet with the DRW Executive Director (or his/her designee) within ten days after receiving written notice from, the aggrieved party. The date of receipt of notice shall be in accordance with Civil Rule .6 of the Washington Court Rules. The meeting may take place in person or telephonically. The parties have the right to bring their counsel to the directors meeting, however it is the preference of the parties not to have their counsel present. In the event a party intends to have his or her counsel present, that party will advise the other party of this intent in advance of the meeting. However, when either director (or his or her designee) is an attorney, it will be understood and expected that the other director may have his or her attorney present without prior notice.

D. In the event that the access issues are not resolved by a meeting between the Director/CEO and Executive Director of DRW or their designees, the parties agree to attempt to resolve the dispute through mediation absent exigent circumstances as described in paragraph 1. An available mediator from the mutually agreed upon Mediator Panel list as described below will be used to conduct the mediation.

Mediation will be scheduled to occur as soon as possible following the directors meeting, but will occur no later than 30 days from the time mediation is agreed upon by the parties, absent written, agreement by both parties to extend this timeline. The mediation may take place telephonically or in any manner the mediator believes will be efficient and conducive to a productive mediation. If, at any time during the mediation, either party declares an impasse, the mediation will end. The parties are then encouraged, but not required, to arbitrate the dispute. The costs of mediation shall be borne equally by the parties. If no litigation results within 90 days of the completion of mediation, DRW shall withdraw its access request. Nothing, however, prevents DRW from renewing its request in the future should that become necessary. In such event DRW renews the request, and that request is denied by the State, the ADR process will begin again.

E. Within 90 days of the execution of this agreement, the parties shall select a panel of at least 4 mutually agreeable mediators. There will be two separate lists: one for DRW and DDA and one for DRW and the MHD. The parties agree that any

one of the selected panel members will mediate all disputes related to the Access Agreement. However, the parties will rotate the order of contacting the panel members for each mediation in a nonstrategical manner.

In order to select this panel, within 60 days of execution of this agreement the parties will each propose at least 4 mediators. The parties will exchange, via fax, their list of proposed mediators and the mediators' curriculum vitae and any other necessary facts such as cost, mediation rules, etc. If the parties cannot agree upon at least 4 mediators from, the first exchange of lists, the parties will exchange additional lists of mediators until an agreement can be reached. However, a final agreement must be reached no later than 90 days from the date of the settlement agreement of this case absent written agreement for an extension of a specific amount of time.

Any party may strike a mediator from the list except that a party may not strike a mediator from the panel once the mediation process has been initiated to resolve a dispute. If a party strikes a mediator from the panel, that mediator will be replaced by another mediator using the same mediator selection process as described above.

F. In the event that the access issues are not resolved through mediation, the parties may agree to attempt to resolve the dispute through arbitration. Written agreement to proceed to arbitration must be made within five working days of the completion of mediation described in Section B. An available arbitrator from the mutually agreed upon Arbitrator Panel list, as described below, will be used to conduct the arbitration of the dispute. Arbitration will be scheduled to occur as soon as possible, but will occur no later than 45 days from the time arbitration is agreed upon by the parties, absent written agreement by both parties to extend this timeline. Prior to the time of final agreement to arbitrate the dispute, the parties shall agree in writing whether the arbitration decision will be binding or advisory, and if advisory, whether that option is admissible in court. If no litigation results within 90 days of the completion of this arbitration, DRW shall withdraw its access request. Nothing, however, prevents DRW from renewing its request in the future should that become necessary. In such event that DRW renews its request, and that request is denied by the State, the ADR process will begin

G. Within 120 days of the execution of this agreement, the parties shall select a panel of at least 4 mutually agreeable arbitrators. The parties agree that any one of the selected panel members will arbitrate all disputes related to the Access Agreement. However, the parties will rotate the order of contacting the panel members for each arbitration in a nonstrategical manner.

In order to select this panel, within 60 days of the execution of this agreement the parties will each propose at least 4 arbitrators. The parties will exchange, via fax, their list of proposed arbitrators and the arbitrators' curriculum vitae and any other necessary facts such as cost, etc. If the parties cannot agree upon at least 4 arbitrators from the first exchange of lists, the parties will exchange additional lists of arbitrators until an agreement can be reached. However, a final agreement must be reached no later than 120 days from the date of the settlement

**ATTACHMENT F: CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

Primary Covered Transactions 45 CFR 76

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charges by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participants are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This Certification is executed by the person(s) signing below who warrant they have authority to execute this Certification.

CONTRACTOR:
Cares of Washington



Name: Lars Nowack
Title: CEO

DATE: 07/06/2023

ATTACHMENT G: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and believe, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Cares of Washington

Contractor Organization



07/06/2023

Signature of Certifying Official

Date

ATTACHMENT H: CONFIDENTIALITY AND DATA SECURITY

Definitions. The words and phrases listed below, as used in this Contract, shall each have the following definitions:

1. **“AES”** means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>)
2. **“Authorized User(s)”** means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.
3. **“Category 4 Data”** is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of compromise of any such data. For purposes of this contract, data classified as category 4 refers to data protected by: Health Insurance Portability and Accountability Act (HIPPA).
4. **“Cloud”** means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of the data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personnel files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iCloud, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, O365, and Rackspace.
5. **“Confidential Information”** means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential information includes, but is not limited to, Personal Information.
6. **“Encrypt”** means to encode Confidential Information into a format that can only be read by those possessing a “key”; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits (for symmetric keys) or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
7. **“Hardened Password”** means a string of at least eight characters containing at least three of the four following character classes: Uppercase alphabetic, lowercase alphabetic, numeral and special

characters such as an asterisk, ampersand or exclamation point.

8. **“Mobile Device”** means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets and other form factors.
9. **“Multi-factor Authentication”** means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. “PIN” means a personal identification number, a series of numbers which act as a password for the device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
10. **“Personal Information”** means information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver’s license numbers, other identifying numbers, and any financial identifiers.
11. **“Portable Device”** means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with a base computing resources in the form of a processor, memory storage, and network access. Examples include, but are not limited to, mobile phones, tablets and laptops. Mobile Device is a subset of Portable Device.
12. **“Portable Media”** means any machine-readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tape, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
13. **“Physically Secure”** means that access is restricted through physical means to authorized individuals only.
14. **“Secure Area”** means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through the use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to Confidential Information is not

available to unauthorized personnel. In otherwise Secure Areas, such as offices with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure non-authorized staff cannot access it.

15. **“Tracking”** means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
16. **“Trusted Network”** means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS/County Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
17. **“Trusted Systems”** include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network
18. **“Unique User ID”** means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.

1. Administrative Controls.

- a) A documented security policy governing the secure use of its computer network and which defines sanctions that may be applied to the Contractor staff for violating that policy.
- b) If the data is shared under this agreement is classified as Category 4 data, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for the Category 4 data.
- c) If confidential information shared under this agreement is classified as Category 4 data, the contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

2. Authorization, Authentication, and Access. In order to ensure that access to

the Data is limited to authorized staff, the Contractor must:

- a. Have documented policies and procedures governing access to systems with the shared Data.
- b. Restrict access through administrative, physical, and technical controls to authorized staff.
- c. Ensure that the user accounts are unique and that any given user account logon ID and password combination is known only to the employee to whom the account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on the system housing the Data based solely on the logon ID used to perform the action.
- d. Ensure only authorized users are capable of accessing the data.
- e. Ensure that an employee's access to the Data is removed immediately:
 - (1) Upon suspected compromise of the user credentials.
 - (2) When their employment or the contract under which the data is made available to them, is terminated.
 - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
- f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS/County Confidential Information.
- g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users with the contractor's network including:
 - (1) A minimum of 8 characters and containing at least three of the following classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.
 - (2) That a password does not contain a user's name, logon ID, or any form of their full name.
 - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase, which consists of multiple dictionary words.
 - (4) That passwords are significantly different from the previous

four passwords. Passwords that increment by simply adding a number are not considered significantly different.

- h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirement for users by employing measures including:
 - (1) Ensuring mitigations applied to the system do not allow end-user modification.
 - (2) Not allowing the use of dial-up connections.
 - (3) Using industry standard protocols and solutions for remote access. Examples include but are not limited to RADIUS Microsoft Remote Desktop (RDP) and Citrix.
 - (4) Encrypting all remote access traffic from the external workstation to a Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the internet, which is not a Trusted Network.
 - (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
 - (6) Ensuring use of a Multi-Factor Authentication to connect from the external end point to the internal endpoint.
- i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, facial recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:
 - (1) The PIN or password must be at least 5 letters or numbers used in conjunction with at least one other authentication factor;
 - (2) Must not be comprised of all the same letter or number (11111,22222, aaaaa would not be acceptable).
 - (3) Must not contain a run of three or more consecutive numbers (12398, 98743 would not be acceptable)
- j. If the contract specifically allows for storage on a Mobile Device, passcodes for the device must:

- (1) Be a minimum of six alphanumeric characters
- (2) Contain at least three unique character classes (upper case letter, lower case letter, number).
- (3) Not contain more than a three consecutive character run. Passwords consisting of 12345, or abcd12 would not be acceptable.

k. Render the device unusable after a maximum of 10 failed logon attempts.

Confidentiality.

- **The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:**
 - as provided by law; or,
 - in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- **Ensure the security of Confidential Information transmitted via fax (facsimile) by:**
 - Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.

Data Transport:

1. Paper Documents: Send paper documents containing Confidential Information via a Trusted System.

Protection of Data. The Contractor agrees to store data on one or more of the following media and protect the data as described. Electronic data can be on desktops, laptops, and other portable devices, servers and external media:

1. **Hard disk drives.** For Data stored on local workstation hard disks, access to the data will be restricted to Authorized Users by requiring logon to the local workstation using a unique user ID and hardened password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.

2. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the data will be restricted to authorized users through the use of access control lists which will grant access only after the authorized user has authenticated to the network using a unique user ID and hardened password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS/County confidential data stored on these disks, deleting unneeded data is sufficient as long as the disks remain in a secured area and otherwise meets the requirements listed in the above paragraph. Destruction of the data as outlined in Section 11. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the secured area.

3. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a secured area. When not in use for the contracted purpose, such discs must be stored in a Secure Area. Workstations which access DSHS/County data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
4. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a secure area. Access to data on these discs will be restricted to authorized users through the use of access control lists, which will grant access only after the authorized user has authenticated to the network using a unique user ID and hardened password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
5. **Paper documents.** Any paper records must be protected by storing the records in a secure area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
6. **Data storage on portable devices or media.**
 - A) Except where otherwise specified herein, DSHS/County data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the Terms and Conditions of the contract. If so authorized, the data shall be given the following protections:

- Encrypt the data.
 - Control access to devices with a unique user ID and hardened password or stronger authentication method, such as physical token or biometrics.
 - Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
- B) Apply administrative and physical security controls to Portable Devices and Portable media by:
- Keeping them in a Secure Area when not in use,
 - Using check-in/check-out procedures when they are shared; and
 - Taking frequent inventories.
- C) When being transported outside of a Secure Area, Portable Devices and Portable Media with confidential DSHS/County data must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

7. Data Stored for Backup Purposes

- (1) DSHS/County data may be stored on Portable Media as part of a Contractor's existing documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as media would be reused during the course of normal backup operations. If backup media is retired while DSHS/County Confidential Information still exists upon it, such media will be destroyed at that time in accordance with Section 11. Data Disposition.
- (2) DSHS/County data may be stored in non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this attachment. If this media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with Section 11. Data Disposition.

8. **Cloud Storage.** DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this attachment. Cloud storage of data is problematic as DSHS/County nor the Contractor has control over the environment in which the data is stored. For this reason:

(1) DSHS/County Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:

- a) Contractor has written procedures in place governing the use of the Cloud storage and Contractor can attest to the contract listed in the contract and keep a copy of the attestation for your records in writing that all such procedures will be uniformly followed.
- b) The Data will be Encrypted while within the Contractor network.
- c) The Data will remain encrypted during transmission to the Cloud.
- d) The Data will remain encrypted at all times while residing within the Cloud Storage solution.
- e) The Contractor will possess a decryption key for the Data, and the decryption key will only be possessed by the Contractor.
- f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on the contractor network.
- g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User or within the contractor network.

(2) Data will not be stored on an Enterprise Cloud storage solution unless either:

- a) The Cloud storage provider is treated as any other Sub-contractor, and agrees in writing to all the requirements within this attachment; or,
- b) The Cloud storage solution used is HIPPA compliant.

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPPA), the Cloud provider must sign a Business Associate Agreement prior to the data being stored in their Cloud solution.

9. **System Protection.** To prevent compromise of systems which contain DSHS/County Data or through which that Data passes:

- a. Systems containing DSHS/County data must have all security patches or hotfixes applied within three months of being made available.
- b. The Contractor will have a method of ensuring the requisite patches and hotfixes have been applied within the required timeframes.
- c. Systems containing DSHS/County Data shall have an Anti-Malware application, if available, installed.
- d. Anti-Malware software must be kept up to date. The product, its anti-virus engine and any malware database the systems uses, will be no more than one update behind current.

10. Data Segregation.

- DSHS/County category 4 data must be segregated or otherwise distinguishable from non-DSHS/County data. This is to ensure that when no longer needed by the Contractor, all DSHS/County data can be identified for return or destruction. It also aids in determining whether DSHS/County data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation:
 - DSHS/County data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS/County data; and/or
 - DSHS/County data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS/County data; and/or
 - DSHS/County data will be stored in a database which will contain no non-DSHS/County data; and/or
 - DSHS/County data will be stored within a database and will be distinguishable from non-DSHS/County data by the value of a specific field or fields within database records; and/or
 - When stored as physical paper documents, DSHS/County data will be physically segregated from non-DSHS/County data in a drawer, folder, or other container.
- When it is not feasible or practical to segregate DSHS/County data from non-DSHS/County data, then both the DSHS/County data and the non-DSHS/County data with which it is commingled must be protected as described in this attachment.

11. Data Disposition. When the contracted work has been completed or when no longer needed, except as noted in **Protection of Data**, the Contractor will

certify in writing that the data stored on the media listed below was destroyed utilizing the approved methods outlined in the following table:

Data stored on:	Will be destroyed by:
Server or workstation hard disks or Removable media (e.g. floppies, USB flash drives, portable hard disks, Zip or similar disks), excluding optical discs	Using a "wipe" utility which will overwrite the data at least three (3) times using either random or single character data Degaussing sufficiently to ensure that the data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or confidential data	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of data will be protected.
Paper documents containing confidential information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a course abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

12. Notification of Compromise or Potential Compromise. The compromise or potential compromise of DSHS/County shared data must be reported to the County within one (1) business day of discovery. The Contractor must also take action to mitigate the risk of loss and comply with any requirements imposed by law or DSHS/County.



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