CONTRACT#2016-DD-24

between

CLARK COUNTY, by and through its Department of Community Services, Contracts Unit,
1601 East Fourth Plain Blvd., Bldg. 17-A419, Vancouver WA 98661
PO Box 5000, Vancouver, WA 98666-5000
(360) 397-2130

and

EDUCATIONAL SERVICE DISTRICT #112
2500 NE 65th Avenue
Vancouver, Washington 98661

Program/Services Being Funded: **Early Intervention Services**

Period of Performance:	July 1, 2015 – June 30, 2016
Contract Period:	July 1, 2015 – July 31, 2016
Budget Authority:	$84,854.88
Funding Sources:	State DDA, DD Property Tax

CONTRACTOR CONTACT	COUNTY CONTACT
Carol Hall (360) 750-7500 ext. 302 carol.hall@esd112.org	Kristin Wade (360) 397-2075 ext 7830 kristin.wade@clark.wa.gov

This Contract consists of the following exhibits:

☒ Special Terms and Conditions; Statements of Work
☒ Exhibit A -- Contractor Travel Reimbursement Policy
☒ Attachment A -- BAA/QSOA

Clark County and the Contractor agree to the terms and conditions of the Clark County Basic Interagency Agreement and this Contract by signing below:

FOR CLARK COUNTY:

Mark McCauley, Acting County Manager

8/4/15
Date:

FOR THE CONTRACTOR:

Signature

7/22/15
Date:

APPROVED AS TO FORM:

Clark County Deputy Prosecuting Attorney

BUDGET SUMMARY
CONTRACT #2016-DD-24
EDUCATION SERVICE DISTRICT #112

SERVICE CATEGORY	PAYMENT	BARS	REVENUE SOURCE	BUDGET
Early Intervention Services	Monthly Case Rate	568.61 568.111	DDA/DD Property Taxes	$84,854.88

SPECIAL TERMS AND CONDITIONS
DEVELOPMENTAL DISABILITIES PROGRAM
JULY 2015

The Clark County Department of Community Services, and the Clark County Developmental Disabilities Advisory Board and the Developmental Disabilities Administration (DDA) works to assure families are aware of and can access early intervention services for infants and toddlers age birth to three. In order to invest public funds in programs and agencies that produce quality services and positive, measurable outcomes for customers, choice and customer and family satisfaction is vital in the design and implementation of supports and services.

1. APPLICABLE REGULATIONS

The Contractor shall comply with the Revised Code of Washington (RCW), Washington Administrative Code (WAC), and all applicable federal, state, and local laws and regulations.

2. CONTRACT NUMBER

The Contractor agrees to utilize the number of this Contract on all correspondence, communications, reports, vouchers and such other data concerning this Contract or delivered hereunder.

3. CUSTOMER CONFIDENTIALITY

The Contractor shall maintain each customer's personal information in accordance with state and federal regulations regarding confidentiality. This includes ensuring that all information on supported customers is maintained in a secure and confidential manner, that files and other records shall not be left in areas of unrestricted access but kept in secure areas and in locked cabinets when not in use and not secured by staff presence. The Contractor will take reasonable steps to protect personal information in all oral and electronic communication. The use or disclosure of any information concerning a customer who is receiving services under this Contract for any purpose not directly connected with the administration of the Contractor's or the County's responsibilities, with respect to services provided under this Contract, is prohibited except by written consent of the customer or their legal representative. The Contractor shall have a policy and procedure for meeting this obligation.

The Contractor shall have internal policies and procedures related to the privacy and the security of Protected Health Information (PHI) in compliance with state and federal guidelines. By signing this Contract, the Contractor certifies compliance with the applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, codified in 42 USC §1320(d) et.seq. and 45 CFR parts 160, 162 and 164; the Health Information Technology for Economic and Clinical Health Act (HITECH Act or "The Act") part of the American Recovery and Reinvestment Act of 2009 (ARRA), 42 CFR Part 2, and state privacy regulations.

4. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION

4.1. This certification is required by the regulations set forth in Title 2 Code of Federal Regulations Part 180. The terms "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded," as used in this clause, have the meanings set out in Title 2 CFR Part 180.995.

4.2. By signing this Contract, the Contractor certifies that neither it nor its principals, (as defined by Title 2 Code of Federal Regulations Part 180) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The Contractor shall provide immediate written notice to the Clark County Department of Community Services if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4.3. Before entering into a "covered transaction" with another party at the next lower tier, the Contractor agrees by signing this Contract that it will first verify that the person or party with whom it intends to do business is not excluded or disqualified. The Contractor may do this by:

(a) Checking the federal Excluded Parties List System (EPLS) at sam.gov

(b) Collecting a certification from the person or party; or

(c) Adding a clause or condition to the covered transaction with that person or party that fully meets the requirements set out in Title 2 Code of Federal Regulations Part 180

4.4. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person or party who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

4.5. The certification in this clause is a material representation of fact upon which reliance is placed at the time of Contract execution and at the time of any subsequent modification(s). If it is at any time determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

4.6. Before hiring any new employee, the Contractor shall conduct a search of the Federal Excluded Parties List System referenced above to ensure that the individual is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The search must be conducted by the Contractor

prior to making an employment offer. Evidence of search results must be maintained in the employee's personnel file.

4.7. The Contractor shall maintain written documentation of its compliance with the above-stated requirements and make said documentation available to Clark County for review upon request.

5. DOCUMENTS INCORPORATED BY REFERENCE

Each of the documents listed below are incorporated by reference into this Contract and are fully set forth herein, including any amendments, modifications, successors or supplements thereto:

5.1. The "Individuals with Disabilities Education Act", Public Law 108-446, available at: http://idea.ed.gov/download/statute.html

5.2. The DSHS and County Agreement on General Terms and Conditions

5.3. The 2015-2016 County Program Agreement with DSHS for DDA County Services, and subsequent agreements and amendments

5.4. DSHS DDA Policies, as applicable; available at: http://www.dshs.wa.gov/ddd/policy.shtml;

- 5.02 – Necessary Supplemental Accommodation (NSA)
- 5.05 – Limited English Proficiency (LEP)
- 5.06 – Client Rights
- 5.13 – Protection from Abuse: Mandatory Reporting
- 5.19 – Positive Behavior Support Policy for Children and Youth
- 5.20 – Restrictive Procedures and Physical Interventions with Children and Youth
- 6.08 – Mandatory Reporting Requirements for Employment and Day Program Services Providers
- 6.13 – Employment/Day Program Provider Qualifications
- 9.0 – Employee Protections from Bloodborne Pathogens (05/01/2009)
- 9.07 – Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)
- 12.01 – Incident Reporting and Management

5.5. Clark County Developmental Disabilities Program Policies and Procedures, as applicable

5.6. Washington State's Federally Approved Plan for the Early Support for Infants and Toddlers Program Department of Early Learning Under the Individuals with Disabilities Education Act (IDEA) Early Intervention Section at: http://www.del.wa.gov/publications/esit/;

5.7. Home and Community-Based Services Waiver (0408) in Accordance with Section 1915(C) of the Social Security Act

5.8. The Budgeting and Accounting Reporting System (BARS)

5.9. DSHS/Disability Rights of Washington Access Agreement available at: https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/policy/policy13.04.pdf

5.10. The Clark County Basic Interagency Agreement

5.11. DDA Criteria for Evaluation

5.12. WAC 388-850, WAC 388-845, WAC 388-828

5.13. County Guidelines, available at https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/c_guidelines.pdf

6. DRUG-FREE WORKPLACE POLICY

The Contractor shall have a "Drug-Free Workplace" Policy that describes the steps taken to deter the use of drugs, including alcohol, in the workplace and that addresses the Drug-Free Workplace Act of 1988. The policy should include any provisions for education, scope of prohibited substances, testing, employee assistance, discipline, and employee responsibilities.

7. DUPLICATION OF PAYMENT

The Contractor certifies that work for services billed under this Contract does not duplicate any work to be charged against any other Contract, Statement(s) of Work, or other source including private pay, or insurance. The Contractor shall document the amount and type of other funding in customer case files.

8. ELIGIBILITY FOR SERVICES

Only customers determined eligible by DDA and/or approved for funding by the County shall be eligible for services reimbursed under this Contract. Funding must be approved by the County prior to the provision of any services under this agreement.

9. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of the terms hereto, and any oral representations or understanding not incorporated herein are excluded. Further, any modification of this Contract shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of Contract and cause for termination. Both parties recognize that time is of the essence in the performance of this Contract. It is agreed by the parties that the forgiveness of non-compliance with any provision of this Contract does not constitute a waiver of the provisions of this Contract.

10. EMPLOYMENT VERIFICATION PROGRAM

10.1. If the amount of this Contract is equal to or greater than $25,000, the Contractor shall enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security (DHS) agreeing to participate in the E-Verify Program. The Contractor shall submit a copy of the MOU to the County prior to starting work under this Contract and shall verify employment eligibility using the E-Verify website throughout the term of the Contract.

10.2. If the Contractor has sub-contracts in an amount equal to or greater than $25,000 working in support of this Contract, the Contractor is responsible for ensuring that the sub-contractor provide a DHS MOU or proof of pending application (followed by an MOU) within 30 days after the contract start date.

10.3. Pre-employment searches must be conducted by the Contractor (and its covered subcontractors) *prior to* making offers of employment. Evidence of search results must be maintained in each employee's personnel file. Upon completion of this Contract, the Contractor shall provide the County with a written document certifying the authorized employment status of its employees and those of any sub-contractors assigned to the perform work under the Contract.

10.4. E-Verify program and enrollment information is available at the Department of Homeland Security website: http://www.uscis.gov/e-verify.

11. FISCAL AUDIT

11.1. The Contractor shall comply with Generally Accepted Accounting Principles (GAAP) and/or Governmental Generally Accepted Accounting Principles (GGAAP) and meet the financial management systems requirements of the contract.

11.2. The above requirement may be demonstrated either by submission of an annual independent auditor's report, review report, or by the submission of semi-annual financial reports based upon the mid-point and end of the Contractor's fiscal year.

11.3. If an annual audit or review by an accountant is not performed, financial statements shall be submitted within ninety (90) days of the mid-point and end of the Contractor's fiscal year. The financial reports shall include:

11.3.1. Non-Profit Contractors – A Statement of Financial Position, Statement of Activities, and Statement of Changes in Net Assets and Statement of Cash Flows.

11.3.2. For-Profit Contractors – A Balance Sheet, Income Statement, and Statement of Cash Flows.

11.3.3. Public Entities are exempt from the semi-annual financial reporting requirement.

11.4. If the Contractor is a non-profit organization or public entity, and expends federal funds or has federally-funded loan balances at the end of the Contractor's fiscal year, the Contractor shall prepare a Schedule of Expenditures of Federal Awards (SEFA) in accordance with 2 C.F.R §200.508. The Contractor shall submit the SEFA to Clark County within ninety (90) days of the end of the Contractor's fiscal year.

11.5. If the Contractor expends $750,000 or more in federal funds during the fiscal year, a single audit is required. The Contractor shall provide the County with a Corrective Action Plan for any audit findings as well as a copy of any Management Letter, SAS 114, or Governance Letter within thirty (30) days of issuance by the auditor. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

11.5.1. Non-Profit Contractors and Public Entities – The audit report must meet the requirements of 2 C.F.R §200 with assurances of financial record-keeping that identifies all federal funds received and expended by the OMB Catalog of Federal Domestic Assistance number. 2 C.F.R §200 requires the Contractor to provide the auditor with a Schedule of Expenditures of Federal Awards (SEFA) for the fiscal year(s) being audited. Audits for fiscal years that include this Contract shall be completed and submitted to the County within nine (9) months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing.

11.5.2. For-Profit Contractors – An independent audit, an independent limited scope audit, or other evidence negotiated with and approved by the County that provides positive assurance of meeting GAAP or GGAAP. Independent audits for fiscal years that include this Contract shall be completed and submitted to the County within nine (9) months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

12. INSURANCE

12.1. At the execution of this Contract, the Contractor must provide an original ACORD Form with the Commercial General Liability (CGL) or Business Owners Policy (BOP), showing the broker of record, insurance limits, renewal dates, deductible that is less than or equal to $5,000, and $1,000,000 of annually renewing occurrence based coverage. A "Claims-Made Policy" is not acceptable. In the case where the underlying insurance policy is expended due to excessive defense and/or indemnity claims, before renewal, the Contractor warrants and guarantees the coverage limits, to include indemnity and defense up to the listed limit, from its own resources regardless of coverage status due to cancellation, reservation of rights, or any other no-coverage-in-force reason. Coverage shall

not contain any endorsements excluding nor limiting product/completed operations, contractual liability or cross liability. In all cases, the Contractor's policy is primary and they waive their right of subrogation.

12.2. The Contractor agrees to endorse the County as an "Additional Insured" on the CGL or BOP policy with the following, or similar, endorsement providing equal or broader additional insured coverage: the CG2026 07 04 Additional Insured – Designated Person or Organization endorsement, or the CG2010 10 01 Additional Insured – Owners, Contractor, or the CG2010 07 04 Contractor, or Contractor endorsement, including the "Additional Insured" endorsement of CG2037 10 01 Additional Insured – Owners, Contractor – Completed Operations, which shall be required to provide back coverage for the Contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured Endorsement shall read "Clark County Washington".

12.3. At the execution of this Contract, and assuming vehicles are used in the Contractor's business, an ACORD Form shall be provided with $1,000,000 in annually renewing occurrence based coverage for all vehicles owned, used, or leased by Contractor. If vehicles are not used, on letterhead, a letter to the County must state the same. This coverage may be added to the above CGL or BOP ACORD Form(s).

12.4. The Contractor shall provide to the County proof of a professional liability/errors and omissions insurance policy to protect against legal liability arising out of Contract activity. Coverage shall include medical malpractice if medical services are provided. Such insurance shall provide a minimum of $1,000,000 per occurrence, with a $3,000,000 aggregate, with a maximum deductible of $5,000. It should be an occurrence based policy. However, if the policy is a claims-made policy, then tail coverage must be provided for three (3) years after the end of the Contract.

12.5. All insurers used must have an AM Best's Rating of A-VII or better. The Contractor shall provide its own insurance protection at its own expense for any property (contents or personal property) maintained on the premises. In addition, the Contractor shall insure the real property and all fixtures and improvements for its full insurable replacement value against loss or damage by fire and other hazards included within the term "extended coverage." All policies and renewals on the real property shall be in a form and with a carrier acceptable to the County. The Contractor shall maintain insurance throughout the Contract term and if a policy is cancelled or terminated, it is the Contractor's responsibility to provide evidence of continuing coverage during the overlap periods of the policy and to notify the County of any change in its insurance. The address for all certificates will be written as follows: Clark County, Department of Community Services, Attention: Contracts Unit, PO Box 5000, Vancouver, WA 98666.

13. LIMITED ENGLISH PROFICIENCY

The Contractor shall ensure compliance with Title VI, Prohibition Against National

Origin Discrimination Affecting Limited English Proficient Persons, and Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency. The Contractor shall ensure all their employees review DDA Policy 5.05 and customers receive accommodations in compliance with LEP policies.

14. OPERATIONAL REQUIREMENTS

The Contractor shall adhere to the following procedures in providing services and business operations:

14.1. Ensure that all staff receives required training as determined by DDA Policy 6.13 Provider Qualifications for Employment and Day Program Services and the Clark County DD Program that meets County and State approved standards and the needs of customers in service. All staff shall receive required trainings every two (2) years after initial training. Proof of trainings shall be kept in personnel files. All training requirements are the responsibility of the Contractor and shall include:

14.1.1. Prior to working with customers unsupervised, employees must have knowledge of and receive training in the following areas:

i. Customer confidentiality
ii. Current individual work and support plans for each customer with whom the employee works
iii. DDA Policy 5.06, Client Rights
iv. DDA Policy 5.13, Protection from Abuse: Mandatory Reporting
v. DDA Policy 6.08, Mandatory Reporting Requirements for Employment and Day Program Services Providers – All Contractor staff members are required to complete the DDA Employment and Day Program Services Providers: Mandatory Reporting of Abandonment, Abuse, Neglect, Exploitation, or Financial Exploitation of a Child or Vulnerable Adult form. A copy of this form must be maintained in each employee's personnel file
vi. DDA Policy 9.07, HIV and AIDS
vii. First Aid and CPR (current)
viii. Bloodborne Pathogens
ix. DDA Policy 12.01, Incident Reporting and Management and County-approved Incident Reporting Form

14.1.2. Within one (1) month of employment, employees must receive training in the following:

i. DDA Policy 5.20, Restrictive Procedures and Physical Interventions with Children and Youth

14.1.3. Within three (3) months of employment, employees must receive training in the following:

i. DSHS/Disability Rights of Washington (DRW) Access Agreement
ii. County Guidelines published by the Washington State Department of Social and Health Services Developmental Disabilities

Administration

14.2. The Contractor shall communicate directly with the assigned County Program Coordinator on issues related to service provision and/or funding for supported customers. All required submissions regarding this Contract shall also be directed to the assigned County Program Coordinator, including communication regarding planning, exceptions to policy, and incidents.

14.2.1. The Contractor shall return all phone calls and emails within two (2) business days.

14.3. The Contractor shall follow these procedures regarding customers' health and safety:

14.3.1. Adhere to DDA Policy 6.08: Mandatory Reporting Requirements for Employment and Day Program Services Providers and the County DD Program requirements regarding incident reporting.

The Contractor's staff are considered "mandated reporters" under RCW 74.34.020(11) and must comply with reporting requirements described in RCW 74.34.035.040 and Chapter 26.44 RCW.

If the Contractor is notified by the County or DSHS that a staff member has been cited or is on the registry for a substantiated finding, then that staff member must be prohibited from providing services under this contract.

14.3.1.1. DDA Policy 6.08 requires that the Contractor have written policies and procedures to address the agency's actions when a staff person is accused of abandonment, abuse, neglect, exploitation, financial exploitation, or mistreatment of DDA clients. These procedures must adhere to current laws, rules, and policies pertaining to abuse/neglect reporting.

14.3.1.2. DDA Policy 6.08 also requires that the Contractor take steps to ensure that an accused staff member does not work unsupervised with clients until an investigation has been completed by the authorities.

The Contractor will promptly report to the county and DDA Case Manager if 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, and, 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.

14.3.2. Complete notification and a written incident report within the timeframes indicated below to DDA case management, other agencies as appropriate, and the County. The report shall document all incidents, and any pertinent medical information or health changes including but not limited to

behavioral issues, injury, criminal convictions or charges, use of restrictive physical interventions, and health or safety issues regarding the customer. The report shall be filed on a County Incident Reporting form.

14.3.2.1 All of the following shall be reported to Clark County and Case Manager within one hour:

A. Known media interest or litigation

B. Death of a customer

C. Natural disaster or other conditions threatening the operations of the program

D. Alleged sexual abuse of a client by contractor, employee, volunteer, licensee, or sub-contractor

E. Clients missing from supervision in cases where a missing person report is being filed with law enforcement

F. Injuries resulting from abuse/neglect or unknown origin requiring hospital admission

G. Client arrested with charges or pending charges for a violent crime

14.3.2.2 All of the following shall be reported to Clark County and Case Manager within one working day:

A. Alleged or suspected abuse, abandonment, neglect, exploitation or financial exploitation of a client by contractor, employee, volunteer, licensee or sub-contractor

B. Client Injury of unknown origin (see definitions in DDA policy 12.01)

C. Criminal activity perpetrated by a contractor employee

D. Criminal activity by customer resulting in a case number being assigned by law enforcement

E. Sexual abuse of a customer not reported in section 16.3.2.1 above

F. Injuries resulting from customer to customer abuse requiring medical treatment beyond First Aid

G. Injuries of known cause (other than abuse) resulting in hospital admission

H. Missing person (see definitions in DDA policy 12.01)

I. Death of a client (not suspicious or unusual)

J. Alleged or suspected abuse, abandonment, neglect, exploitation, or financial exploitation by other non-client/non-staff screened in by APS or CPS for investigation

K. Criminal activity against customer by others resulting in a case number being assigned by law enforcement

L. Restrictive procedures implemented under emergency guidelines (see definitions in DDA policy 12.01)

M. Emergency medical hospitalizations

14.3.3. Ensure that emergency contact and medical information (medications, diet, allergies, etc.) needed during the hours of service is available for each customer.

14.3.4. Employ staff aged 18 years or older and conduct a background criminal history clearance every three (3) years for all employees, subcontractors, and/or volunteers who may have unsupervised access to vulnerable DSHS customers, in accordance with RCW 43.43.830-845, RCW 74.15.030, WAC Chapter 388.06, and 388-825.

The Contractor must have prior written County response before permitting staff with convictions that are not automatically disqualifying to have unsupervised access to customers. The DSHS Background Check Central Unit (BCCU) shall be utilized to obtain all background clearances.

If the Contractor elects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would automatically disqualify the applicant from having unsupervised access to children and/or vulnerable adults as defined in RCW Chapter 74.34.020 Definitions, the County shall deny payment for any services rendered by the disqualified staff member.

14.3.5. The Contractor shall ensure all services are provided in accordance with the DDA Criteria for Evaluation, federal, state and local safety standards.

14.3.6. For Child Development service providers, the Contractor's employees must have a current valid Washington State credential prior to employment if the position requires the employee to be registered, certified, or licensed under Washington State law for the service(s) the Contractor intends to provide under Contract.

14.4. Maintain and adhere to a County-approved written grievance procedure for customers in accordance with the DDA Criteria for Evaluation and DDA Necessary Supplemental Accommodation (NSA) Policy 5.02 and that it:

14.4.1. Is explained to the customer and, if necessary, to a family member, guardian or advocate

14.4.2. Provides for negotiation of conflicts

14.4.3. Provides a mediation process using someone who is unaffected by the outcome if conflicts remain unresolved and may include the DDA Case Manager as an alternative option

14.4.4. Promotes the availability of and encourages the use of advocates by customers to help negotiate conflicts

14.4.5. Prohibits retaliation for using the grievance process

14.4.6. Includes a process for tracking and reporting grievances

14.4.7. Acknowledges that all customers have freedom of choice of providers and shall cooperate with the County and DDA to ensure this right. This includes directing customers to their DDA Case Managers if they indicate an interest in changing services or providers

14.4.8. Has timelines for filing and responses

14.4.9. Has formal and informal process for resolution, including arbitration, if necessary

14.4.10. Notifies the County and DDA Case Manager when a grievance requires formal arbitration

14.4.11. Notifies the customer that they may contact the County and DDA Case Manager if unsatisfied with Contractor response

14.4.12. Documents the customer's receipt of written procedure in the customer's file

14.5. The Contractor shall cooperate and collaborate with the County, other entities, the customer and family members in the provision of services, planning and information sharing, and meet with the County upon request.

14.6. The Contractor, the Contractor's Board Members, or the Contractor's staff shall not serve as an employer or a decision-maker for a customer or a customer's family members or provide any form of guardianship, legal representation, payee, or residential supports to customers receiving services under this Contract. This

provision may be waived upon written approval of the County.

14.7. Use Release of Information (ROI) forms that, at a minimum:

14.7.1. Include the name, address, phone number and contact person of the entity requesting the information

14.7.2. Identify only one (1) entity to receive the request for information, with that entity clearly identified

14.7.3. State specific information being requested and the purpose for the request.

14.7.4. Prohibit the re-release of information

14.7.5. Include an expiration date for the request. The expiration date may not be more than ninety (90) days from the date of the request. In some instances where there is a need for on-going communication, such as DVR or a County service provider, the release may be for a maximum of one (1) year and must indicate the end date

14.7.6. Include the customer's or legal guardian's signature and date of signature

14.8. The Contractor shall have a written performance plan that describes program objectives, expected outcomes, how and when objectives and outcomes will be accomplished, and shall have an administrative/organizational structure that clearly defines responsibilities with a current organizational chart. The plan shall be evaluated at least biennially and revised based on actual performance.

14.8.1. The Contractor shall send a copy of their written performance plan to their County contact person for approval by August 30, 2015.

14.9. Each individual shall have one (1) file with a table of contents. All service documentation shall be included in the file. In the event that the file becomes full, a Volume II shall be created for the customer. An individual case note shall be created for each individual and shall correlate with each individual's service billed to the County. All case notes shall be in chronological order. Older case notes will be in the back and the most recent case notes will be in the front. Other forms of documentation will not be accepted when reviewing files for billing verification.

Minimum standards for case notes:

- Customer name
- Date of service
- Start time
- Duration of services (in minutes)
- Description of services provided
- Service setting
- Authentication, including printed name, and title of person providing service

15. PAYMENT AND BILLING PROVISIONS AND REPORTING REQUIREMENTS

15.1. The County shall pay the Contractor a monthly case rate for each customer served. Services billed more than sixty (60) days after the date of service will not be paid as the County will not be able to bill the State. Payment shall be made upon receipt of an invoice and documentation of the services performed and any required County and customer reports, including copies of County approvals for any exceptions to policies, subject to the following provisions:

15.1.1. The Contractor shall submit a Clark County invoice and CMIS Report by the 10th of each month for reporting and payment purposes.

15.1.1.1. The Contractor shall use a Clark County invoice that shall identify the month and year of service, the Contract number, and all services being billed for the previous month. If received by the 10th of the month, payment to the Contractor will be processed within twenty (20) days of the receipt of a complete and accurate invoice and CMIS report.

15.1.1.2. The Contractor shall submit a CMIS Report that includes all customers authorized by the County for service without regard to source of funding.

15.1.1.3. The Contractor shall report all funds received for customers who have multiple funding sources for these services, upon request.

15.1.1.4. If the County does not receive a complete and accurate billing by the 20th of the month, the invoice will not be processed for payment until the following month.

15.1.1.5. Contractor shall bill to the quarter hour.

15.2. The Contractor shall bill only for services to customers who:

15.2.1. Are authorized for service through a County Approval

15.2.2. Have a Service Plan

15.2.3. Are accepted for service by the Contractor

15.3. For fee-for-service activities, the Contractor shall be reimbursed based upon the total units of service delivered for each Statement of Work activity. The Contractor will maintain records of service delivery to justify the fees being claimed. Costs covered by fee-for-service payment shall not be submitted for cost reimbursement.

15.4. The County may adjust the funding between budget categories or line items in a Statement of Work based on actual costs and/or projected changes in need. The Contractor may also request changes in categorical funding within a Statement of

Work. However, funding may not be rolled over from one fiscal year to the next.

15.5. Reporting erroneous service information regarding a County-funded customer may result in corrective action, may constitute Medicaid fraud or abuse, and possible Contract termination.

15.6. Overbilling the County for any reason will result in corrective action, repayment, and may result in Contract termination. All such actions will be reviewed for evidence of fraud or abuse.

15.7. Funds received from the County shall not be used to provide cash benefit to the supported customer or family member, whether salary, bonuses or benefits.

16. PERIOD OF PERFORMANCE AND CONTRACT PERIOD

16.1. Subject to its other provisions, the Period of Performance of this Contract is July 1, 2015 through June 30, 2016.

16.2. Services shall be provided and billable costs incurred within the Period of Performance, and billings shall be submitted in accordance with the schedule in Section 17, Payment and Billing Provisions.

16.3. The Contractor shall have until the final day of the Contract Period to submit reports and complete non-billable end of contract activities.

16.4. The County reserves the right to extend the Contract, with the same terms and conditions, or offer a new contract upon satisfactory Contractor performance.

17. PROCUREMENT

17.1. The procurement method for this Contract was an RFQ.

17.2. For those services that have a qualified providers list, a Contractor that is placed in corrective action shall be removed from the list and shall not accept new customers.

18. RECORDS RETENTION

The Contractor shall:

18.1. Retain all financial, statistical, property, materials, supplies, participant records, and supporting documentation for a period of seven (7) years from the termination of the Contract. Upon termination of the contract the County reserves the right to request that all records shall be returned to the County.

18.2. Retain records for non-expendable property for a period of seven (7) years after final disposition of the property.

18.3. If any litigation, audit or bankruptcy is begun, or if a claim is instituted involving the Contract or any agreement covered by the records, retain the related records until the litigation, audit, or claim has been finally resolved.

18.4. Make available to the County for review any documents and records that relate to the performance of duties or other requirements of this agreement. Withholding of relevant documents may result in termination of this Contract.

19. SURVIVABILITY

Certain terms and conditions are intended to survive the expiration of the Contract. Surviving terms include, but are not limited to: Records Retention, confidentiality, monitoring cooperation, financial management and data, payment terms for the last month of service, insurance provisions for potential claims through their statute of limitations, including tolling.

20. WORK PRODUCTS

Work products developed as a result of this Contract will be owned by the County. Such work products may include but are not limited to reports, maps, charts, materials, software systems and other products created as a result of the work performed under this Contract.

EXHIBIT A

CONTRACTOR TRAVEL REIMBURSEMENT POLICY

I. The following travel related expenses are allowable costs if incurred in conjunction with travel for the performance of work under contract with Clark County. [1]

A. Actual costs of air, bus, train, taxi, tolls, car rentals and parking fees. Personal automobile usage will be reimbursed at the prevailing IRS rate per mile from the employee's business location to the travel destination. In instances where personal automobile usage exceeds the cost of airfare, reimbursement will be limited to the cost of traveling to the same destination by coach class airfare.

B. Actual costs of hotel or motel accommodations at single occupancy rates up to the per diem maximum lodging rate for the applicable locality established by the U.S. General Services Administration [2]. The maximum lodging rate is exclusive of lodging taxes.

C. Meals and incidental expenses (M&IE) at the per diem rates for each locality as established by the U.S. General Services Administration [2].

D. Other reasonable and ordinary expenses that are related to the performance of the contract and incurred by the contractor while on official business. Examples of these costs are business related phone calls, registration fees and fax transmissions.

II. It is expected that travel for business conducted in Vancouver, WA will be based upon the per diem rates established for the Vancouver, WA per diem locality, without regard to actual location of lodging.

III. Travel and expense reimbursements must be submitted in accordance with Section I with supporting documentation for days of travel and include receipts for expenses that are reimbursed at actual cost. The Contractor will be required to state, on the invoice, departure time for the first day of the trip and the return time on last day of the trip (or both for a one day trip) [3].

IV. Definitions for M&IE

A. Meals. Expenses for breakfast, lunch, dinner and related tips and taxes (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

B. Incidental expenses. Fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, and hotel servants in foreign countries; and, transportation between places of lodging or business and places where meals are taken, if suitable meals cannot be obtained at the lodging or business site.

(1) Federal Travel Regulations are available at the GSA website, www.gsa.gov/federaltravelregulation. Domestic per diem locality rates may be accessed from the section on Travel and Per Diem at http://www.gsa.gov/perdiem. Do not use this site for the mileage reimbursement rates. The Department of Community Services uses the IRS published mileage reimbursement rates.

(2) The per diem locality rate for Vancouver, WA, is up to $113 plus taxes for lodging and $56 for M&IE (meals and incidental expenses).

(3) M&IE per diem calculation based on County Policy. To calculate the M&IE per diem on travel days, use the chart below. On the first day of travel, the Departure Before" time refers to the time the Contractor departs home or office to travel to Vancouver or final destination for trip. The "Return After" time refers to the time the Contractor arrives back at the place of departure.

Departure Before	Return After	Percent of Per Diem
7 am	10 am	25%
11 am	2 pm	30%
5 pm	7 pm	45%

STATEMENT OF WORK #1
CONTRACT #2016-DD-24
EDUCATION SERVICE DISTRICT #112

SERVICE CATEGORY	PAYMENT	BARS	REVENUE SOURCE	BUDGET
Early Intervention Services	Monthly Case Rate	568.61 568.111	DDA/DD Property Taxes	$84,854.88

A. SERVICE DEFINITION / TARGET POPULATION

Early Intervention Services include specialized therapeutic and/or educational services for eligible infants and toddlers from birth to the child's third birthday, and their families, or by written County exception, enrollment in public school. These services require 1) with family permission, sharing information with and making referrals to a local Family Resources Coordinator (FRC); 2) documentation of services as part of an Individualized Family Service Plan (IFSP); and 3) participation with the local school district and others in the development of a transition plan prior to the child's third birthday.

The goal of Early Intervention Services is to enhance the development of infants and toddlers with disabilities and to minimize their developmental delays. Early Intervention Services in natural environments are intended to promote improved positive social-emotional skills (including social relationships); acquisition and use of knowledge and skills (including early language/communication); and use of appropriate behaviors to meet their needs. Services shall be designed to match the preferences, hopes and strengths of the family and enhance their capacity to meet the special needs of their infants and toddlers with disabilities. The number of eligible children to be funded under this Statement of Work is reviewed at least annually based on customer and family choice of service providers and the total number of County-funded children.

B. CONTRACTOR REQUIREMENTS

The Contractor shall ensure that the training, experience, and expertise of their staff meet the highest entry-level requirements in Washington State for Early Intervention Professionals and relate to the needs of the participants, as outlined in DDA Policy 6.13.

The Contractor shall provide to the County Developmental Disabilities Program Coordinator a schedule of business hours for each calendar year, within fifteen (15) days of the beginning of the contract. The schedule shall include regular days and hours of operations, observed holidays and planned closures.

C. AUTHORIZED EARLY INTERVENTION SERVICES

The Contractor shall provide one (1) or more of the Early Intervention Services listed below, as defined by Washington State's Federally Approved Plan for the Early Support

for Infants and Toddlers Program Department of Early Learning Under the Individuals with Disabilities Education Act (IDEA) Early Intervention Section at: http://www.del.wa.gov/publications/esit/

Only services provided in natural environments are funded in this Statement of Work.

C.1. Family training, counseling, and home visits

C.2. Occupational therapy

C.3. Physical therapy

C.4. Specialized instruction

C.5. Speech/Language Pathology

D. PROGRAM REQUIREMENTS

It is expected that services will be delivered within a multi-disciplinary team and using a primary coach approach. One (1) member of a multi-disciplinary team will be assigned as the principal coach and point of contact for the child and family. The primary coach is responsible for the child/family outcomes as identified on the child's IFSP. Other therapists and/or educators provide support to the primary coach and may provide services to the child as needed to meet the outcomes identified on the IFSP.

The Contractor shall provide services as outlined below:

D.1. Evaluation (eligibility), assessment (child and family need) and the IFSP shall be conducted within 45 days of receipt of referral. (Referral is defined as the date the Family Resources Coordinator, or local lead agency, received referral or initial contact).

D.2. Collaborate with the child's Family Resources Coordinator in the development of an IFSP.

D.2.1. 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.

D.2.1.1. Child specific outcomes reflect the child's participation in everyday routines and activities.

D.2.1.2. Family specific outcomes address the capacity of the family to enhance their child's development.

D.2.2. Services consistent with the IFSP will be started within thirty (30) days of the start date on the signed IFSP unless the IFSP documents that the parent requested a delay in the start of the service(s).

D.2.3. Participate in the IFSP review at a minimum of every six (6) months or more frequently if conditions warrant, and write a new IFSP annually.

Service changes indicated by this review will be initiated at the time of the review.

D.2.4. Progress toward the child and family outcomes within the IFSP are assessed on an ongoing basis and documented at least annually.

D.3. Contractor shall obtain from the parent, in writing, consent for all activities related to the provision of early intervention service in the family's native language or other mode of communication.

D.4. Services must be provided in the most natural environment for each child including in-home services. Natural environments are settings that are natural or normal for the child's age peers who have no disabilities (*US Code of Federal Regulations 303.18*). These services are provided in the home, neighborhood, or community settings in which children without disabilities participate (*Washington State's Application for Federal Funds, Section III-12*).

D.4.1 Community-Based Service Definition: Services provided in a setting where children without disabilities typically are found. These settings include but are not limited to: child care centers (including family day care), preschools, regular nursery schools, libraries, grocery stores, parks, restaurants, and community centers (e.g. YMCA, Boys and Girls Clubs). Services provided in a hospital, residential facility, clinic, and Early Intervention center/class designed for children with disabilities are not considered community-based.

D.5. Support the continued development of this service through activities such as, but not limited to, reviewing draft documents and providing feedback to the County, participating in all County required trainings and attending all service development meetings.

D.6. Document that each family is assisted to ensure the child obtains an evaluation by a multidisciplinary team and that the evaluation used to determine eligibility shall:

D.6.1. Be completed in accordance with the ESIT Early Intervention Practice Guide: www.del.wa.gov/publications/esit/docs/PracticeGuide_EvalIFSP45-daytimeline.pdf

D.6.2. Document that the child demonstrates a delay of 1.5 standard deviation or 25% of chronological age delay in one (1) or more of the developmental areas.

D.6.3. Include the name and discipline of the clinician performing the evaluation shall be included on all evaluation reports.

D.6.4. Be conducted within forty-five (45) days of receipt of referral. (Referral is defined as the date the family has been informed of the opportunity for services, of their rights, and they indicate a desire to pursue services).

D.7. Participate in the development of a transition plan, for each child, ninety (90) days prior to the child's third birthday, in collaboration with the local school district and the local lead agency.

D.8. Participate in the development of a complete a Child Outcome Summary (COS), for each child, at the beginning and end of the child's services.

D.9. Provide services in a manner that supports the cultural and ethnic diversity of families.

D.10. Ensure that eligible families have access to interpreter services when needed to effectively participate in Child Development Services.

E. REQUIRED SERVICE DOCUMENTATION

The Contractor will comply with the following established guidelines, requirements, and criteria for service documentation:

E.1. The Contractor shall email to the County Contact person, the number County approved children that the Contractor provided services to in a natural environment. The Contractor shall include all children that have a County approval for each month, even if the services were not billed to the County. The Contractor shall submit these quarterly numbers with their CMIS billing for the following service months:

- September 2015
- December 2015
- March 2016
- June 2016

F. PAYMENT

F.1. Services will be paid as a **monthly case rate** for a minimum of 1 hour of service provided to each eligible customer. The monthly case rate is $214.28.

F.2. The County will pay only for Early Intervention activities provided individually and in natural environments. This funding is intended to augment other funding sources available to the Contractor in providing services to eligible customers.

F.3. The Contractor shall not provide services to more than 33 children per month without prior written County authorization.

F.4 Services shall be provided in accordance with County Policy DCS 31 – Service Definitions and Coding and the County authorization of services.

F.5 The County may request that the Contractor purchase equipment or other special program-specific items for the effective provision of services to individuals with

developmental disabilities. The County will reimburse the Contractor for these required items subject to prior written approval by the County. The approval shall be based upon written documentation submitted by the Contractor to include vendor name, cost, product model, and a thorough description of the requested item(s).

F.6 The Contractor shall bill for services in accordance with the Payment and Billing Provisions and Reporting Requirements Section in the Special Terms and Conditions of this Contract and criteria referenced in this Statement of Work.

Attachment A

Business Associate Agreement and Qualified Service Organization Agreement Between Educational Service District #112 and Clark County Department of Community Services

This Business Associate Agreement (BAA) and Qualified Service Organization Agreement (QSOA) is entered into between Clark County Department of Community Services (the "Covered Entity") and Educational Service District #112 (the "Business Associate").

Recitals

A. Business Associate provides Early Intervention services for Covered Entity (the "Services") which sometimes may involve (i) the use or disclosure of Protected Health Information (as defined below) by Business Associate, (ii) the disclosure of Protected Health Information by Covered Entity (or another business associate of Covered Entity) to Business Associate, or (iii) the creation, receipt, maintenance, or transmission of Electronic Protected Health Information (as defined below) by Business Associate. Accordingly, the use, disclosure, transmission, or maintenance of Protected Health Information by Business Associate is subject to the privacy regulations (the "HIPAA Privacy Regulations") and the security regulations (the "HIPAA Security Regulations") promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and 45 C.F.R. Parts 160 and 164 with respect to such Services. This Agreement is intended to document the business associate assurances required by the HIPAA Privacy Regulations (at 45 C.F.R. § 164.504(e)), and the HIPAA Security Regulations (at 45 C.F.R. § 164.314(a)).

B. This Agreement will govern the terms and conditions under which Covered Entity may disclose or have disclosed to Business Associate, and Business Associate may create, use, disclose, maintain, transmit or receive, Protected Health Information on behalf of Covered Entity. This Agreement will also govern the terms and conditions under which Covered Entity may disclose or have disclosed to Business Associate, and Business Associate may create, receive, maintain or transmit, EPHI on behalf of Covered Entity.

Agreement

1. Definitions. Capitalized terms used in this Agreement, but not otherwise defined in this Agreement, shall have the same meanings as those terms in the HIPAA Privacy Regulations and the HIPAA Security Regulations. Unless otherwise stated, a reference to a "Section" is to a Section in this Agreement. For purposes of this Agreement, the following terms shall have the following meanings.

1.1 Breach. "Breach" shall have the same meaning as the term "breach" in 45 C.F.R. § 164.402.

1.2 Designated Record Set. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.

1.3 Electronic Protected Health Information or EPHI. "Electronic Protected Health

Information" or "EPHI" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.4 Individual. "Individual" shall mean the person who is the subject of Protected Health Information as provided in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.5 Individually Identifiable Health Information. "Individually Identifiable Health Information" shall have the same meaning as the term "individually identifiable health information" in 45 C.F.R. § 160.103.

1.6 Protected Health Information or PHI. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.7 Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

1.8 Secretary. "Secretary" shall mean the Secretary of the federal Department of Health and Human Services or that person's designee.

1.9 Security Incident. "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.

1.10 Unsecured Protected Health Information. "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

2. Permitted Uses and Disclosures by Business Associate.

2.1 General. Except as otherwise specified in this Agreement, Business Associate may use or disclose PHI to perform its obligations for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the HIPAA Privacy Regulations if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

2.2 Other Permitted Uses. Except as otherwise limited by this Agreement, Business Associate may use PHI it receives or creates in its capacity as a business associate of Covered Entity, if necessary:

2.2.1 for the proper management and administration of Business Associate;

2.2.2 to carry out the legal responsibilities of Business Associate; or

2.2.3 to provide Data Aggregation services to Covered Entity which relate to the health care operations of Covered Entity in accordance with the HIPAA Privacy Regulations.

2.3 Other Permitted Disclosures. Except as otherwise limited by this Agreement, Business Associate may disclose to a third party PHI it receives or creates in its capacity as a business associate of Covered Entity for the proper management and administration of Business Associate, provided that:

2.3.1 The disclosure is Required by Law; or

2.3.2 Business Associate obtains reasonable assurances from the third party to whom the information is disclosed that (i) the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the third party, and (ii) the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 De-Identified Information. Health information that has been de-identified in accordance with the requirements of 45 C.F.R. §§ 164.514 and 164.502(d) and is therefore not Individually Identifiable Health Information ("De-Identified Information") is not subject to the provisions of this Agreement. Covered Entity may disclose PHI to Business Associate to use for the purpose of creating De-Identified Information, whether or not the De-Identified Information is to be used by Covered Entity.

3. Obligations and Activities of Business Associate Regarding PHI.

3.1 Limitations on Uses and Disclosures. Business Associate will not use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law.

3.2 Safeguards. Business Associate will use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

3.3 Mitigation. Business Associate will mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

3.4 Reporting. Business Associate will report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.

3.5 Agents and Subcontractors. Business Associate will ensure that any agent, including any subcontractor, to whom Business Associate provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

3.6 Access. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity, Business Associate will make such PHI available to Covered Entity or, as directed by Covered Entity to an Individual, that is necessary for Covered Entity to respond to Individuals' requests for access to PHI about them in accordance with 45 C.F.R. § 164.524. Business Associate will provide such PHI in an electronic format upon request by Covered Entity unless it is not readily producible in

such format in which case Business Associate will provide Covered Entity a standard hard copy format.

3.7 Amendment of PHI. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity or an Individual, Business Associate will make any requested amendment(s) or correction(s) to PHI in accordance with 45 C.F.R. § 164.526.

3.8 Disclosure Documentation. Business Associate will document its disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.9 Accounting of Disclosures. Within thirty (30) days of receiving a request from Covered Entity, Business Associate will provide to Covered Entity information collected in accordance with Section 3.8 of this Agreement, as necessary to permit Covered Entity to make an accounting of disclosures of PHI about an Individual in accordance with 45 C.F.R. § 164.528.

3.10 Access to Business Associate's Internal Practices. Except to the extent that it violates or interferes with attorney-client privilege, the duty of client confidentiality, or the applicable rules of professional responsibility, Business Associate will make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of (a) PHI received from, or created or received by Business Associate on behalf of, Covered Entity; and (b) EPHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, available to the Secretary or to Covered Entity, in a time and manner designated by the Secretary or reasonably specified by Covered Entity, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Privacy Regulations and HIPAA Security Regulations.

3.11 Breach Notification. Business Associate, following the discovery of a Breach of Unsecured Protected Health Information, shall notify Covered Entity of such breach. Except as otherwise required by law, Business Associate shall provide such notice without unreasonable delay, and in no case later than thirty (30) calendar days after discovery of the Breach.

3.11.1 Notice to Covered Entity required by this Section 3.11 shall include: (i) to the extent possible, the names of the individual(s) whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Breach; (ii) a brief description of what happened including the date of the Breach and the date of the discovery of the Breach, if known; (iii) a description of the types of Unsecured Protected Health Information that were involved in the Breach; (iv) a brief description of what Business Associate is doing or will be doing to investigate the Breach, to mitigate harm to the individual(s), and to protect against further Breaches; and (v) any other information that Covered Entity determines it needs to include in notifications to the individual(s) under 45 C.F.R. § 164.404(c).

3.11.2 After receipt of notice, from any source, of a Breach involving Unsecured Protected Health Information used, disclosed, maintained, or otherwise possessed by Business Associate or of a Breach, involving Unsecured Protected Health Information, for which the

Business Associate is otherwise responsible, Covered Entity may in its sole discretion (i) require Business Associate, at Business Associate's sole expense, to use a mutually agreed upon written notice to notify, on Covered Entity's behalf, the individual(s) affected by the Breach, in accordance with the notification requirements set forth in 45 C.F.R. § 164.404, without unreasonable delay, but in no case later than sixty (60) days after discovery of the Breach; or (ii) elect to provide notice to the individual(s) affected by the Breach.

4. Obligations of Covered Entity.

4.1 Requested Restrictions. Covered Entity shall notify Business Associate, in writing, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, which permits an Individual to request certain restrictions of uses and disclosures, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4.2 Changes in or Revocation of Permission. Covered Entity will notify Business Associate in writing of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes or revocation may affect Business Associate's use or disclosure of PHI.

4.3 Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Regulations and HIPAA Security Regulations if done by Covered Entity, except to the extent that Business Associate will use or disclose PHI for Data Aggregation or management and administrative activities of Business Associate.

5. Security Restrictions on Business Associate.

5.1 General. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security Regulations.

5.2 Agents; Subcontractors. Business Associate will ensure that any agent, including a subcontractor, to whom Business Associate provides EPHI agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of such EPHI.

5.3 Reporting of Security Incidents. Business Associate shall report to Covered Entity any Security Incident affecting EPHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, of which Business Associate becomes aware. This Section constitutes notice to Covered Entity of routine and ongoing attempts to gain unauthorized access to Business Associate's information systems (each an "Unsuccessful Attack"), including but not limited to pings, port scans, and denial of service attacks, for which no additional notice shall be required provided that no such incident results in unauthorized access to Electronic PHI.

5.4 HIPAA Security Regulations Compliance. Business Associate agrees to comply with Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations.

6. Term and Termination.

6.1 Term. This Agreement shall take effect on the Effective Date (as defined below), and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section 6.

6.2 Termination for Cause. If Covered Entity determines that Business Associate has breached a material term of this Agreement, Covered Entity will provide written notice to Business Associate which sets forth Covered Entity's determination that Business Associate breached a material term of this Agreement, and Covered Entity may:

6.2.1 Provide written notice to Business Associate which provides an opportunity for Business Associate to cure the breach or end the violation, as applicable. If Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, then Covered Entity may immediately thereafter terminate this Agreement; or

6.2.2 Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible.

6.2.3 If neither termination nor cure are feasible as provided in Sections 6.2.1 and 6.2.2 of this Agreement, Covered Entity will report the violation to the Secretary.

6.3 Effect of Termination.

6.3.1 Except as provided in Section 6.3.2 of this Agreement, upon termination of this Agreement, for any reason, Business Associate will return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision also applies to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate will retain no copies of the PHI.

6.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate will provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon reasonable determination that return or destruction of PHI is infeasible, Business Associate will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. Qualified Service Organization Agreement. Covered Entity and Business Associate hereby acknowledge that Business Associate and its agents and employees have, as applicable, complied, and will comply, with 42 USC §290dd-2 and 42 CFR Ch. 1, part 2, §§2.11 et seq. (the "Federal Drug and Alcohol Regulations") in that:

7.1 The parties acknowledge that if Business Associate receives, processes, reviews, or otherwise deals with any Covered Entity patient records during the course of the Services Business Associate and its employees will be providing to Covered Entity, that each and every one of said employees will be fully bound by the Federal Drug and Alcohol Regulations;

7.2 Each of Business Associate's employees and agents will maintain Covered Entity's patient identifying information in accordance with federal and state confidentiality rules governing drug and alcohol treatment records;

7.3 Each of Business Associate's employees and agents will comply, as applicable, with the limitations on disclosure, re-disclosure and use set forth in 42 CFR Ch. 1, part 2, §§ 2.16 and 2.53; and

7.4 If necessary, each of Business Associate's employees and agents will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Federal Drug and Alcohol Regulations.

8. Miscellaneous.

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

8.2 Amendment. If any new state or federal law, rule, regulation, or policy, or any judicial or administrative decision, affecting the use or disclosure of PHI is enacted or issued, including but not limited to any law or regulation affecting compliance with the requirements of the HIPAA Privacy Regulations or the HIPAA Security Regulations, the parties agree to take such action in a timely manner and as is necessary for Covered Entity and Business Associate to comply with such law, rule, regulation, policy or decision. If the parties are not able to agree on the terms of such an amendment, either party may terminate this Agreement on at least thirty (30) days' prior written notice to the other party.

8.3 Survival. The respective rights and obligations of Business Associate under Section 6.3 of this Agreement ("Effect of Termination") shall survive the termination of this Agreement.

8.4 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Privacy Regulations, the HIPAA Security Regulations, and the Federal Drug and Alcohol Regulations. The section and paragraph headings of this Agreement are for the convenience of the reader only, and are not intended to act as a limitation of the scope or meaning of the sections and paragraphs themselves.

8.5 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Business Associate and Covered Entity and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

8.6 Assignment. This Agreement shall not be assigned or otherwise transferred by either party without the prior written consent of the other, which consent shall not be unreasonably withheld; provided that no such consent shall be required for either party's assignment or transfer of this Agreement in connection with a sale or transfer of all or substantially all of the business or assets of the assigning party. This Agreement shall be binding

on and inure to the benefit of the parties hereto and their permitted successors and assigns.

8.7 Entire Agreement. This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes all prior communications, representations, and agreements, oral or written, of the parties with respect to its subject matter.

8.8 Severability and Waiver. The invalidity of any term or provision of this Agreement will not affect the validity of any other provision. Waiver by any party of strict performance of any provision of this Agreement will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision of this Agreement.

8.9 Notices. Any notices permitted or required by this Agreement will be addressed as follows or to such other address as either party may provide to the other:

If to Covered Entity:	Clark County Department of Community Services ATTN: Contract Section PO Box 5000 Vancouver, WA 98666-5000
If to Business Associate:	Educational Service District #112 ATTN: Carol Hall 2500 NE 65th Avenue Vancouver, WA 98661

8.10 Counterparts. This Agreement may be executed in multiple counterparts, all of which together will constitute one agreement, even though all parties do not sign the same counterpart.

8.11 Effective Date. This Agreement will become effective on the date first written above.

IN WITNESS WHEREOF, the parties hereto have caused this BUSINESS ASSOCIATE AGREEMENT AND QUALIFIED SERVICE ORGANIZATION AGREEMENT to be duly executed as of the Effective Date.

Data Security Requirements

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

   a. "Authorized User(s)" means an individual or individuals with an authorized business requirement to access DSHS Confidential Information.

   b. "Hardened Password" means a string of at least eight characters containing at least one alphabetic character, at least one number and at least one special character such as an asterisk, ampersand or exclamation point.

   c. "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.

2. **Data Transport**. When transporting DSHS Confidential Information electronically, including via email, the Data will be protected by:

   a. Transporting the Data within the (State Governmental Network) SGN or Contractor's internal network, or;

   b. Encrypting any Data that will be in transit outside the SGN or Contractor's internal network. This includes transit over the public Internet.

3. **Protection of Data**. The Contractor agrees to store Data on one or more of the following media and protect the Data as described:

   a. **Hard disk drives**. Data stored on local workstation hard disks. Access to the Data will be restricted to Authorized User(s) 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.

   b. **Network server disks**. 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 Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in the above paragraph. Destruction

of the Data as outlined in Section 5. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

c. **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 locked in a drawer, cabinet or other container to which only Authorized Users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS 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.

d. **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 Secured 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.

e. **Paper documents.** Any paper records must be protected by storing the records in a Secured Area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.

g. **Data storage on portable devices or media.**

(1) Except where otherwise specified herein, DSHS 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:

(a) Encrypt the Data with a key length of at least 128 bits

(b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.

(c) 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.

(d) Physically secure the portable device(s) and/or media by:

(e) Keeping them in locked storage when not in use

(f) Using check-in/check-out procedures when they are shared, and

(g) Taking frequent inventories

(2) When being transported outside of a Secured Area, portable devices and media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data.

(3) Portable devices include, but are not limited to; smart phones, tablets, flash memory devices (e.g. USB flash drives, personal media players), portable hard disks, and laptop/notebook/netbook computers if those computers may be transported outside of a Secured Area.

(4) Portable media includes, but is not limited to; optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape), or flash media (e.g. CompactFlash, SD, MMC).

h. **Data stored for backup purposes.**

(1) DSHS 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 that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition

(2) DSHS Data may be stored on 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 exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.

4. **Data Segregation.**

a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS 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.

b. DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. And/or,

c. DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,

d. DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,

e. DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.

f. When stored as physical paper documents, DSHS Data will be physically segregated from non- DSHS data in a drawer, folder, or other container.

g. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

5. **Data Disposition**. When the contracted work has been completed or when no longer needed, except as noted in Section 3. Protection of Data b. Network Server Disks above, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Server or workstation hard disks, or	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or
Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Degaussing sufficiently to ensure that the Data cannot be reconstructed, or Physically destroying the disk

Paper documents with sensitive or Confidential Information	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 coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

6. **Notification of Compromise or Potential Compromise**. The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at dshsprivacyofficer@dshs.wa.gov. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

7. **Data shared with Subcontractors**. If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the sub- Contractor must be submitted to the DSHS Contact specified for this contract for review and approval.