

**CONTRACT
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 in Natural Environments
Period of Performance: July 1, 2014 – June 30, 2015
Contract Period: July 1, 2014 – July 31, 2015
Budget Authority: \$88,854.88
Funding Sources: State DDA and DD Property Tax

CONTRACTOR CONTACT	COUNTY CONTACT
Susan Helms-Peyer (360) 750-7500 ext. 302 susan.helmspeyer@esd112.org	Kristin Wade Telephone: (360) 397-2075, x 7830 kristin.wade@clark.wa.gov

This Contract consists of the following:
Special Terms and Conditions; Statement of Work; Attachment A – BAA/QSOA; and

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

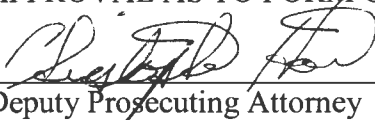
FOR CLARK COUNTY:

Mark McCauley County Administrator

Date 8/6/14

FOR THE CONTRACTOR:

Signature

Title SD Superintendent

APPROVAL AS TO FORM ONLY:

Deputy Prosecuting Attorney

Date 7/29/14

CONTRACT #2015-DD-24
BUDGET SUMMARY
EDUCATION SERVICE DISTRICT 112
July 1, 2014 – June 30, 2015

Service Category	Payment	Revenue Source	BARS	Program Code / Reporting Category	Budget 7/1/14– 6/30/15
Early Intervention Services in Natural Environments	Fee-for-Service	DDA / DD Property Taxes	568.61 568.111	772 /019061	\$88,854.88
TOTAL					\$88,854.88

[Faint handwritten signatures and dates are visible in this area, including "7/1/14" and "6/30/15".]

**SPECIAL TERMS AND CONDITIONS
DEVELOPMENTAL DISABILITIES PROGRAM
JULY 2014**

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 The Contractor shall certify that neither it nor its principals, officers, employees and subcontractor(s) 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 may search for excluded individuals on the Federal Excluded Parties List System at:

<http://tinyurl.com/obb7mh4>

- 4.2. The Contractor shall provide written certification of the above to the County within thirty (30) days of the start of this Contract, and maintain evidence of compliance in personnel files.

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 2014-2015 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
 - 9.03 - Employee Protections from Bloodborne Pathogens (05/01/2009)
 - 9.07 – Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)
 - 12.01 – Incident 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), available at: <http://www1.dshs.wa.gov/ddd/counties.shtml>;
- 5.9. The DSHS / Disability Rights of Washington Access Agreement, available at: <http://www1.dshs.wa.gov/pdf/adsa/ddd/WPAS.pdf>;
- 5.10. The Clark County Basic Interagency Agreement;
- 5.11. DDA Criteria For An Evaluation, System Criteria For All Services; and
- 5.12. WAC 388-850-025, WAC 388-845-0001.

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 VERIFY PROGRAM

The Contractor shall register with the Department of Homeland Security (DHS) E-Verify Program prior to starting work under this Contract. The Contractor shall enter into a Memorandum of Understanding (MOU) with the DHS E-Verify Program, and submit the MOU to the County. When new employees are hired, the Contractor shall update the information on the E-Verify website, and at the end of the Contract, the Contractor shall submit the written documentation of the authorized employment status of their employees and those of any sub-contractor(s) assigned to the Contract. E-Verify information and enrollment is available at the Department of Homeland Security web page: www.dhs.gov/E-Verify.

11. FISCAL REQUIREMENTS

Fiscal Audit

- 11.1. The Contractor is required to submit evidence of financial operations that complies with Generally Accepted Accounting Principles (GAAP) or Governmental Generally Accepted Accounting Principles (GGAAP) and that meets the financial management systems requirements of the Contract.
- 11.2. The requirement may be met by submission of semi-annual financial reports based upon the mid-point and end of the Contractor's fiscal year. These reports shall be submitted within forty-five (45) days of the mid-point and end of the Contractor's fiscal year. The financial reports shall include:
 - 11.2.1. Non-Profit Contractors – A Statement of Financial Position, Statement of Activities, and Statement of Changes in Net Assets and Statement of Cash Flows.
 - 11.2.2. For Profit Contractors – A Balance Sheet, Income Statement, and Statement of Cash Flows.
 - 11.2.3. Public Entities are exempt from the semi-annual financial reporting requirement.
- 11.3. Copies of independent audit reports shall be submitted to the County. Copies of other financial records may be required.
- 11.4. If the Contractor expends \$500,000 or more in federal funds during the fiscal year, an audit report is required.
 - 11.4.1. Non-Profit Contractors and Public Entities – The audit report must meet OMB Circular A-133 requirements with assurances of financial record keeping that will enable identification of all federal funds received and

expended by the OMB Catalog of Federal Domestic Assistance number. Revised OMB A-133 requires the Contractor to provide the auditor with a schedule of Federal Expenditure for the fiscal year(s) being audited. A-133 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.

11.4.2. 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.

11.5. If applicable, the Contractor shall include a Corrective action plan for audit findings and a copy of any Management Letters. 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. The Contractor shall provide a fidelity insurance policy to protect against employee dishonesty and ensure that every officer, director, or employee who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs is covered by fidelity insurance in an amount not less than the total contract budget authority. The insurance must be secured for the term of the contract and must name the County as "Additional Insured". The certificate shall show the broker of record, insurance limits, renewal dates, and the coverage must include employee theft per loss, employee theft per employee, and theft (disappearance and destruction).
- 12.6. 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 Washington, Department of Community Services, Contracts Unit, PO Box 5000, Vancouver, WA 98666-5000.

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 6.08, Mandatory Reporting Requirements for Employment and Day Program Services Providers - The Contractor shall 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 and keep in personnel files;
- v. DDA Policy 9.07, HIV and AIDS;
- vi. First Aid and CPR (current); and
- vii. Bloodborne Pathogens

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. DDA Policy 5.19, Positive Behavior Support Policy for

Children and Youth;

- ii. DSHS/Disability Rights of Washington (DRW) Access Agreement; and
- iii. "County Guidelines" published by the Washington State Department of Social and Health Services Developmental Disabilities Administration dated July 1992 and found at: http://www.dshs.wa.gov/pdf/adsa/ddd/c_guidelines.pdf

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 shall 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 within thirty (30) days of signing this Contract. Incidents shall be filed on a County Incident Reporting form.

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 43.43.830-485, RCW 74.15.030, and WAC Chapter 388.06. If the Contractor 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 access to vulnerable adults as defined in RCW Chapter 74.34.020 Definitions, then the County shall deny payment for any subsequent services rendered by the disqualified staff. The Contractor must have prior written County approval before permitting staff with other convictions to have unsupervised access to customers. The DSHS Background Check Central Unit (BCCU) shall be utilized to obtain background clearances.

14.3.5. If a member of the Contractor's staff is accused of an illegal or abusive act(s), the staff member shall be placed on administrative leave and the Contractor shall have (7) days to investigate the accusation. The Contractor shall immediately notify the County of the issue.

14.3.6. The Contractor shall ensure all services are provided in accordance with the DDA Criteria For An Evaluation System, Criteria For All Services, federal, state and local safety standards, including U.S. Department of Labor, Occupational Health and Safety Administration standards.

14.3.7. 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 An Evaluation System, Criteria For All Services and DDA Necessary Supplemental Accommodation (NSA) Policy 5.02 and that:

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; and
- 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 and;
- 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 Contractors 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, how and when objectives and outcomes will be accomplished, expected outcomes, 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 by August 30, 2014.

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 reimburse the Contractor on a fee-for-service basis unless otherwise designated in the Statement(s) of Work for providing services described in the Statement(s) of Work. 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 or due on the CMIS report for adults who have multiple funding sources for County services.

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.

15.2. The Contractor shall send a letter to the County with the first billing designating the parties authorized to sign Contracts and invoices.

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

15.3.1. Are authorized for service through a County Approval; and

15.3.2. Are accepted for service by the Contractor.

15.5. 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.

- 15.6. 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.
- 15.7. Reporting erroneous service information regarding a County funded customer may result in corrective action, may constitute Medicaid fraud or abuse, and possible Contract termination.
- 15.8. 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.
- 15.9. 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.
- 15.10. The Contractor shall ensure that a Contract closeout process is completed within thirty (30) days of the end of the Contract period. Payment requests received by the County after the thirty (30) day closeout period will not be processed, as the funding may have expired.

16. PERIOD OF PERFORMANCE AND CONTRACT PERIOD

- 16.1. Subject to its other provisions, the Period of Performance of this Contract is July 1, 2014 through June 30, 2015.
- 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 15, 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.

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.

CONTRACT #2014-DD-24
BUDGET SUMMARY
EDUCATION SERVICE DISTRICT 112
July 1, 2014 – June 30, 2015

Service Category	Payment	Revenue Source	BARS	Program Code / Reporting Category	Budget 7/1/14– 6/30/15
Early Intervention Services in Natural Environments	Fee-for-Service	DDA / DD Property Taxes	568.61 568.111	772 /019061	\$84,854.88
TOTAL					\$84,854.88

1. 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 are specialized therapeutic and/or educational services for eligible infants and toddlers and their families from birth to the child’s third birthday. 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; 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 consumer choice of service providers and the total number of County-funded children.

2. 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.

3. 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.

3.1. Family training, counseling, and home visits

3.2. Occupational therapy

3.3. Physical therapy

3.4. Specialized instruction

3.5. Speech/Language Pathology

4. 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 Individual Family Service Plan (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:

- 4.1. Evaluation (eligibility), assessment (child and family need) and the Individualized Family Service Plan (IFSP) shall be conducted within 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).
- 4.2. Collaborate with the child's Family Resources Coordinator in the development of an Individual Family Service Plan (IFSP).
 - 4.2.1. 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.
 - 4.2.1.1. Child specific outcomes reflect the child's participation in everyday routines and activities.
 - 4.2.1.2. Family specific outcomes address the capacity of the family to enhance their child's development.
 - 4.2.2. 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).
 - 4.2.3. 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.
 - 4.2.4. Progress toward the child and family outcomes within the IFSP are assessed on an ongoing basis and documented at least annually.
- 4.3. 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.
- 4.4. 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*).

- 4.4.1 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.
- 4.5. 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.
- 4.6. 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:
- 4.6.1. Be completed in accordance with the ITEIP Early Intervention Practice Guide:
www.del.wa.gov/publications/esit/docs/PracticeGuide_EvalIFSP45-daytimeline.pdf
- 4.6.2. 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.
- 4.6.3. Include the name and discipline of the clinician performing the evaluation shall be included on all evaluation reports.
- 4.6.4. 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).
- 4.7. 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.
- 4.8. 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.
- 4.9. Provide services in a manner that supports the cultural and ethnic diversity of families.
- 4.10. Ensure that eligible families have access to interpreter services when needed to effectively participate in Child Development Services.

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

5.1. 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 2014
- December 2014
- March 2015
- June 2015

6. PAYMENT

6.1. Services will be paid on a monthly case rate for a minimum of 1 hour of service provided. The County will pay only for Early Intervention activities in natural environments. This funding is intended to augment other funding sources available to the Contractor in providing services to eligible customers.

6.2. Service Rates: Monthly Rate is \$214.28

6.3. Services shall be provided in accordance with County Policy DCS 31 – Service Definitions and Coding, and the County authorization of services. The Contractor shall not exceed, without prior written County authorization:

6.3.1. Services to a maximum of 33 children per month.

6.3.2. Service levels may be changed upon written county approval.

6.5. Required Equipment Costs. 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 description of the requested items.

6.6. 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), dated as of July 1, 2013 (the "Agreement"), 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 in Natural Environments 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, redisclosure 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: Susan Helms-Peyer
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.

