UPPER KITTTAS COUNTY TRANSPORTATION SERVICES AGREEMENT BETWEEN HOPESOURCE AND KITTITAS COUNTY

THIS AGREEMENT is made by and between KITTITAS COUNTY, a political subdivision of the State of Washington, hereinafter referred to as "the County," and HOPESOURCE, a non-profit organization established under the laws of the State of Washington, with principal offices located at 700 East Mountain View, Suite 501, Ellensburg, Washington.

1. **PURPOSE AND SERVICES TO BE PROVIDED**. The purpose of this Agreement is to meet an existing need for services to senior citizens in the form of referral and transportation services, which needs are not currently being fully met in the County, but which can be met by HopeSource through its Upper County Senior Services and Transportation Office, with financial assistance from the County.

    a. The County enters into this Agreement pursuant to the authority of Article 8, Section 7 of the Washington State Constitution, RCW 36.39.060 and RCW 36.01.010, to provide and to delegate the provision of such services.

    b. In consideration of HopeSource providing such services, the County agrees to pay HopeSource the sum of Ten Thousand Five Hundred Dollars ($10,500.00), payable as one lump sum payment at the end of the second quarter of 2017. The County agrees to make such payment within 30 (thirty) days of the end of the second quarter.

    c. The parties agree that the funds provided by the County are not the total funding for the Upper County Senior Services and Transportation Office and that HopeSource has other resources which it will use in providing the services.

    d. In return for funding assistance from the County, HopeSource will provide the following services:

        i. Respond to requests for information and make referrals to appropriate agencies in the Upper Kittitas County; and

        ii. Schedule and arrange transportation to senior meal sites, doctor appointments, and shopping in the Upper Kittitas County and serve as a contact to arrange other medically related transportation that cannot be accommodated by HopeSource's van service.

2. **TERMS OF AGREEMENT.**

    a. Term. This Agreement shall be in effect for the period beginning January 1, 2017 and ending December 31, 2017.

b. Termination. This Agreement shall terminate on December 31, 2017. The Agreement may be terminated prior to December 31, 2017 by either party delivering written notice to the other party, thirty (30) days prior to the end of any calendar quarter. Notice shall be sent certified mail, return receipt requested, but shall be deemed given when placed in the United States mail, properly addressed and with proper postage affixed, regardless of whether it is ultimately received. The parties agree that there is no guarantee of renewing this Agreement in a subsequent year.

c. Termination for Change in Funding. If the funds upon which the County has relied to establish this Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, the County may terminate this Agreement by providing at least fifteen (15) days written notice to HopeSource.

d. Termination for Default or Non-Performance. If either party defaults in its performance under this Agreement, the non-defaulting party may give the defaulting party written notice that it has fifteen (15) days in which to cure the default. If the defaulting party fails to commence correction of such non-performance within the fifteen (15) days and fails to diligently complete the correction thereafter, the non-defaulting party may terminate this Agreement. In the event of such termination, the non-defaulting party shall have all rights and remedies available to it under the law.

e. Payment for Authorized Work. Upon termination for any cause, HopeSource will be paid for all authorized work performed up to and including the termination date.

f. Written Reports. At the end of each quarter HopeSource shall report in writing to the Board of County Commissioners describing the services HopeSource has provided to senior citizens under this Agreement, and shall further certify the number of senior citizens who have received such services.

g. Records to be Kept. HopeSource shall keep adequate records to reflect the services delivered and to whom they were delivered and such records shall be open to the County's inspection and audit.

h. County Observation. The County shall have the right to observe any and all activities conducted in the above-specified programs and shall have the right to determine whether said programs meet the requirements of this contract. HopeSource agrees to make any changes requested by the County with respect to the manner in which it conducts its programs and delivers its services for which it claims reimbursement.

i. Failure to Comply. Failure to comply with any of the provisions stated in this Agreement shall constitute material breach of contract and be cause for termination.

j. Public Records. The County respects the confidentiality of information provided to the County. However, any documents provided to the County will become County property and thus public information. To the extent required by law, such documents may be subject to public disclosure requirements.

3. **INDEPENDENT RELATIONSHIP OF THE PARTIES.**

a. The parties intend to create an independent contractor relationship between HopeSource and the County. The parties agree that they are independent entities organized under the laws of the State of Washington operating pursuant to the terms and conditions of this Agreement.

b. No agent, employee, servant or representative of HopeSource shall be deemed to be an employee, agent, servant or representative of the County for any purpose, and the employees of HopeSource are not entitled to any of the benefits the County provides for its employees.

c. HopeSource will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors, volunteers or representatives during the performance of this Agreement.

d. In relation to the performance of this Agreement, neither party will hold out itself or any of its officers, agents, employees, servants or representatives as, nor claim status as, an officer, agent, employee, servant or representative of the other and will not claim for itself or its officers, agents, employees, servants or representatives any rights, privileges or benefits which would accrue to an officer, agent, employee, servant or representative of the other.

4. **INDEMNIFICATION AND HOLD HARMLESS.**

a. No liability shall attach to the County by reason of entering into this Agreement except as expressly provided herein.

b. HopeSource shall indemnify, defend and hold harmless Kittitas County, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees and costs, arising out of or resulting from the activities undertaken by HopeSource in meeting its obligations under this Agreement.

c. It is specifically agreed that HopeSource shall indemnify and hold harmless the County from all obligations to pay or withhold federal or state taxes or contributions on behalf of HopeSource or the employees of HopeSource.

5. **INSURANCE.**

a. HopeSource shall procure and maintain for the duration of the Agreement,

insurance against claims or injuries to persons or damage to property which may arise from or in connection with the performance of the work herein provided by HopeSource, its agents, representatives, employees or volunteers.

b. HopeSource shall maintain automobile liability insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for bodily injury and property damage of One Million Dollars ($1,000,000) per accident. If necessary, the policy shall be endorsed to provide contractual liability coverage.

c. HopeSource shall maintain commercial general liability insurance covering liability arising from premises, operations, independent contractors and personal injury and advertising injury, and said insurance shall be written with limits no less than One Million Dollars ($1,000,000) per each occurrence and Two Million Dollars ($2,000,000) general aggregate.

d. All insurance shall be issued by companies admitted to do business in the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

e. Kittitas County shall be named as an additional insured under HopeSource's commercial general liability insurance policy with respect to work performed for the County. HopeSource must provide to the County a policy endorsement as evidence of the additional insured coverage, which endorsement must state that HopeSource's insurance shall not be reduced or canceled without thirty (30) days prior written notice sent to the County by certified mail, return receipt requested.

f. Where professionals act on behalf of HopeSource to perform professional services through HopeSource, HopeSource shall obtain professional liability insurance with limits of no less than One Million Dollars ($1,000,000) per claim and One Million Dollars ($1,000,000) policy aggregate limit.

g. HopeSource's insurance policies for automobile liability, professional liability and commercial general liability shall provide, or be endorsed to provide, that Hope Source's insurance coverage shall be primary insurance with respect to the County. Any insurance, self-insurance or insurance pool coverage maintained by the County shall be excess of HopeSource's insurance and shall not contribute with it.

h. Where required, HopeSource shall obtain workers' compensation coverage as mandated by the Washington State Department of Labor and Industries.

i. Upon adoption of this Agreement, HopeSource shall provide the County with original certificates and a copy of any amendatory endorsements including, but not limited to, the additional insured endorsement evidencing HopeSource's insurance requirements. Certificates of insurance and policy endorsements shall be furnished and signed by a person authorized by the respective insurance company to bind coverage on the insurance company's behalf.

6. **COMPLIANCE WITH LEGAL REQUIREMENTS.**

a. In the performance of this Agreement, HopeSource shall comply with all applicable federal, state, or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services. HopeSource specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

b. The County is an equal opportunity employer. In the performance of this Agreement, HopeSource will not discriminate against any employee or applicant for employment on grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular work involved.

   i. Such nondiscrimination in employment shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships.

   ii. HopeSource shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

c. In the performance of this Agreement, HopeSource will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

7. **ASSIGNMENT AND/OR SUBCONTRACTING.**

a. HopeSource shall not assign or subcontract its performance under this Agreement or any portion of this Agreement without the written consent of the County, and said consent must be sought in writing by HopeSource not less than thirty (30) days prior to the date of any proposed assignment or subcontract. The County reserves the right to reject without cause any such agreement.

b. If any assignment and/or subcontracting is authorized by the County, said assignment or subcontract shall include appropriate safeguards against discrimination. HopeSource shall take such action as may be required to ensure full compliance with all the above provisions concerning nondiscrimination in employment and in receipt of services or benefits provided under this Agreement.

8. **DISPUTE RESOLUTION, JURISDICTION AND VENUE.**

a. This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and the parties agree that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

b. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in Kittitas County, Washington.

c. If any legal proceeding is brought for the enforcement of this Agreement or because of a dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney fees and other costs incurred in that action or proceeding as may be allowed by the court.

9. **MODIFICATION AND WAIVER.**

a. This Agreement may be amended, superseded, cancelled, renewed or extended and the terms hereof may be waived, only by a written consent signed by the parties or, in the case of a waiver, by the party waiving compliance.

b. The parties agree that forgiveness of any delay or non-performance of any provision of this Agreement, by any party in exercising any right, power or privilege under this Agreement, does not constitute a waiver of the provisions of this Agreement. No whole or partial waiver on the part of any party of any right, power or privilege under specific circumstances shall operate or be construed as a future waiver of such right, power or privilege.

c. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity, except where this Agreement expressly provides otherwise.

d. Only the Board of Kittitas County Commissioners is authorized to agree to modifications on behalf of the County.

10. **SEVERABILITY.**

a. If for any reason any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations contained in this Agreement shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in conflict with any statutory provision in the State of Washington, said conflicting provision shall be deemed inoperative and null and void to the extent of said conflict, and this Agreement shall be deemed modified to conform to the valid statutory provisions.

c. In the event that any agency of the State of Washington or any federal agency shall issue a formal or informal opinion declaring that this entire Agreement is unlawful or *ultra vires*, or in the event any court so rules, HopeSource shall, upon demand of the County, refund to the County any payments hereunder made.

11. **ENTIRE AGREEMENT.**

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. The parties recognize that time is of the essence in the performance of this Agreement.

DATED THIS _____ DAY OF _____ 2016.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

ATTEST:

_____
Obie O'Brien, Chairman

_____
Clerk of the Board

_____
Paul Jewell, Vice-Chairman

APPROVED AS TO FORM:

_____
Laura Osiadacz, Commissioner

_____
Deputy Prosecuting Attorney

HOPESOURCE

_____
Chairman of the Governing Board

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b. No agent, employee, servant or representative of HopeSource shall be deemed to be an employee, agent, servant or representative of the County for any purpose, and the employees of HopeSource are not entitled to any of the benefits the County provides for its employees.

c. HopeSource will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors, volunteers or representatives during the performance of this Agreement.

d. In relation to the performance of this Agreement, neither party will hold out itself or any of its officers, agents, employees, servants or representatives as, nor claim status as, an officer, agent, employee, servant or representative of the other and will not claim for itself or its officers, agents, employees, servants or representatives any rights, privileges or benefits which would accrue to an officer, agent, employee, servant or representative of the other.

4. **INDEMNIFICATION AND HOLD HARMLESS.**

a. No liability shall attach to the County by reason of entering into this Agreement except as expressly provided herein.

b. HopeSource shall indemnify, defend and hold harmless Kittitas County, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees and costs, arising out of or resulting from the activities undertaken by HopeSource in meeting its obligations under this Agreement.

c. It is specifically agreed that HopeSource shall indemnify and hold harmless the County from all obligations to pay or withhold federal or state taxes or contributions on behalf of HopeSource or the employees of HopeSource.

5. **INSURANCE.**

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insurance against claims or injuries to persons or damage to property which may arise from or in connection with the performance of the work herein provided by HopeSource, its agents, representatives, employees or volunteers.

b. HopeSource shall maintain automobile liability insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for bodily injury and property damage of One Million Dollars ($1,000,000) per accident. If necessary, the policy shall be endorsed to provide contractual liability coverage.

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h. Where required, HopeSource shall obtain workers' compensation coverage as mandated by the Washington State Department of Labor and Industries.

i. Upon adoption of this Agreement, HopeSource shall provide the County with original certificates and a copy of any amendatory endorsements including, but not limited to, the additional insured endorsement evidencing HopeSource's insurance requirements. Certificates of insurance and policy endorsements shall be furnished and signed by a person authorized by the respective insurance company to bind coverage on the insurance company's behalf.

6. **COMPLIANCE WITH LEGAL REQUIREMENTS.**

a. In the performance of this Agreement, HopeSource shall comply with all applicable federal, state, or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services. HopeSource specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

b. The County is an equal opportunity employer. In the performance of this Agreement, HopeSource will not discriminate against any employee or applicant for employment on grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular work involved.

   i. Such nondiscrimination in employment shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships.

   ii. HopeSource shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

c. In the performance of this Agreement, HopeSource will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

7. **ASSIGNMENT AND/OR SUBCONTRACTING.**

a. HopeSource shall not assign or subcontract its performance under this Agreement or any portion of this Agreement without the written consent of the County, and said consent must be sought in writing by HopeSource not less than thirty (30) days prior to the date of any proposed assignment or subcontract. The County reserves the right to reject without cause any such agreement.

b. If any assignment and/or subcontracting is authorized by the County, said assignment or subcontract shall include appropriate safeguards against discrimination. HopeSource shall take such action as may be required to ensure full compliance with all the above provisions concerning nondiscrimination in employment and in receipt of services or benefits provided under this Agreement.

8. **DISPUTE RESOLUTION, JURISDICTION AND VENUE.**

a. This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and the parties agree that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

b. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in Kittitas County, Washington.

c. If any legal proceeding is brought for the enforcement of this Agreement or because of a dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney fees and other costs incurred in that action or proceeding as may be allowed by the court.

9. **MODIFICATION AND WAIVER.**

a. This Agreement may be amended, superseded, cancelled, renewed or extended and the terms hereof may be waived, only by a written consent signed by the parties or, in the case of a waiver, by the party waiving compliance.

b. The parties agree that forgiveness of any delay or non-performance of any provision of this Agreement, by any party in exercising any right, power or privilege under this Agreement, does not constitute a waiver of the provisions of this Agreement. No whole or partial waiver on the part of any party of any right, power or privilege under specific circumstances shall operate or be construed as a future waiver of such right, power or privilege.

c. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity, except where this Agreement expressly provides otherwise.

d. Only the Board of Kittitas County Commissioners is authorized to agree to modifications on behalf of the County.

10. **SEVERABILITY.**

a. If for any reason any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations contained in this Agreement shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in conflict with any statutory provision in the State of Washington, said conflicting provision shall be deemed inoperative and null and void to the extent of said conflict, and this Agreement shall be deemed modified to conform to the valid statutory provisions.

c. In the event that any agency of the State of Washington or any federal agency shall issue a formal or informal opinion declaring that this entire Agreement is unlawful or *ultra vires*, or in the event any court so rules, HopeSource shall, upon demand of the County, refund to the County any payments hereunder made.

11. **ENTIRE AGREEMENT.**

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. The parties recognize that time is of the essence in the performance of this Agreement.

DATED THIS _____ DAY OF _____ 2016.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

ATTEST:

_____
Obie O'Brien, Chairman

_____
Clerk of the Board

_____
Paul Jewell, Vice-Chairman

APPROVED AS TO FORM:

_____
Laura Osiadacz, Commissioner

_____
Deputy Prosecuting Attorney

HOPESOURCE

_____
Chairman of the Governing Board