



Kittitas County, Washington

## BOARD OF COUNTY COMMISSIONERS

District One  
Paul Jewell

District Two  
Alan Crankovich

District Three  
Obie O'Brien

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1. **Purpose:** This Agreement is entered into between Elmview and the County. Its purpose is to provide a coordinated and comprehensive local program of services for persons with developmental disabilities and to fulfill the County's responsibilities in the attached Program Agreement between the County and DDD. This contract includes statements of DDD's responsibilities from the attached Program Agreement despite DDD not being a party to this Agreement.
2. **Definitions**
  - a. "CMIS" means the Case Management Information System.
  - b. "County" means the county or counties entering into this Program Agreement.
  - c. "DDD" means the Division of Developmental Disabilities within DSHS.
  - d. "DDD Region" means the DDD regional office.
  - e. "DSHS" means the state Department of Social and Health Services.
  - f. "Quality Assurance" means an adherence to contract minimum requirements as well as a focus on reasonably expected levels of performance, quality, and practice.
  - g. "Quality Improvement" means a focus on activities to improve performance above minimum standards and reasonably expected levels of performance, quality and practice.
3. **Client Eligibility:** Client eligibility and service referral are the responsibility of the DDD in line with Chapter 388-823 WAC (Eligibility) and WAC 388-825 (Service Rules). Only persons referred by the DDD shall be eligible for direct client services under the attached Program Agreement. It is the DDD's responsibility to determine and authorize the appropriate direct service(s) type. Direct client services provided without authorization are not reimbursable under this Agreement.
4. **References.** Links to documents incorporated by reference to this or the attached Program Agreement can be found at the DDD/Counties Internet site: <http://www1.dshs.wa.gov/ddd/counties.shtml> These documents include, but are not limited to:
  - **DDD Policies identified in 6.13**
  - **WAC 388-845 - 0001,0030,0205,0210,0215,0220,0600-0610,1200-1210,1400-1410,2100,2110.**
  - DDD Budget Accounting and Reporting System (BARS) Supplement
  - Disability Rights of Washington (formerly Washington Protection and Advocacy System) Access Agreement
  - Criteria for Evaluation

- County Guidelines
- CMIS Billing Instructions
- Employment & Planned Rates Instructions
- Program Agreement between County and DDD, including Exhibit A: Program Agreement Budget

## 5. Credentials and Minimum Requirements.

- Compliance with DDD Policy 6.13**
- Qualified Coordinator: The Chair of the Board of County Commissioners (BOCC) shall be the designated Qualified Coordinator.
- Qualified Subcontractors: Elmview assures the County that it does now and will during all effective dates of this contract meet quality assurance standards required of subcontractors in the attached Program Agreement.
- Home and Community Based Waiver Services Assignment of Medicaid Billing Rights: Elmview agrees to assign to the County its Medicaid billing rights for services to DDD clients eligible under Title XIX programs in this agreement. Written documentation shall be available to DSHS on request.
- Background / Criminal History Check: Elmview agrees to conduct evidence of background criminal history checks every three years for all employees, subcontractors, and/or volunteers who may have unsupervised access to vulnerable DSHS clients, in accordance with RCW 43.43.830-845, RCW 74.15.030, and chapter 388.06 WAC. If the entity reviewing the application 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 Chapter 74.34 RCW, then DDD shall deny payment for any subsequent services rendered by the disqualified individual provider. The DSHS Background Check Central Unit (BCCU) shall be utilized to obtain background clearance. Elmview will annually and upon request provide copies of all such checks.
- Reporting Abuse and Neglect: Elmview staff are by virtue of this contract mandated reporters under RCW 74.34.020(1), and must comply with reporting requirements described in RCW 74.34.035 and 040 RCW and 26.44 RCW . If the County is notified by DSHS that Elmview is cited or on the registry for a substantiated finding then associated staff will be prohibited from providing services under this contract.
- Elmview recognizes that the County staff must perform on-site evaluations of Elmview work sites and promptly report finding from such evaluations to DSHS under the attached Program Agreement. Elmview will provide full assistance with any such inspection and does hereby waive any cause of action against the County, its officers or staff for any action associated with such evaluations or reporting, even if such action should be willfully negligent.

## 6. Statement of Work

- Program Agreement Budget: The total funding for services will not exceed Exhibit A - Program Agreement Budget and the portion of the millage available to support services for people with developmental disabilities in Kittitas County.
- Client Funding: Funds will follow clients if they move and/or choose a qualified provider in a different county. The client funding amount will be based on that client's historical employment or day program support costs. Negotiation for client funding between the receiving and sending counties is permissible.

- c. Biennial Spending Plan: Elmview shall submit for approval a Biennial Spending Plan (spending plan) to the County in time for the County to submit it to DDD in accordance with the requirements of the attached Program Agreement. The spending plan shall be distributed at the BARS expenditure element code level as well as allocated under State, Medicaid and Proviso and shall function as a line item budget for expenditures under this agreement. The allocation and planned expenditures for Consumer Support (BARS 60 series) should be based on client numbers and Proviso allocations. The state will provide a written response to the county's Biennial Spending Plan (including any amendments to the plan) within 30 calendar days from time of receipt at the DDD Regional office. Once approved, the spending plan may only be modified by mutual agreement of the parties and DDD in writing.
- d. Conveyance of The Estimated Number of People to be Served and Targeted Outcomes: Elmview shall submit on behalf of the County the Service Information Forms (SIF's) provided by the DDD, to indicate the estimated number of people to be served, targeted outcomes, and identified goal(s) that focus on quality improvement within the categories of Community Information, Direct Client Services, and Other Activities within 30 days of receipt of the County Program Agreement.. Once approved the SIF outcomes may be modified only by mutual agreement of the County and the DDD Region.
- e. Limitation to the Waiver services: Elmview will assist the County in complying with WAC 388-845-0110 by monitoring yearly waiver limits for Basic and Basic Plus employment /day program service.
- f. Program Services: Elmview agrees to provide the following:
  - 1) Indirect Client Services
    - i. Designated Representative of County: Elmview shall provide support to the Kittitas County Mental Health/Developmental Disabilities (MH/DD) Advisory Board, and shall represent the interests of the County, county residents who are developmentally disabled, and their families at appropriate meetings as needed and/or directed by the Board of Commissioners,
    - ii. Such activities to and for the County and County staff to facilitate meeting the terms and conditions of the contract between the State of Washington and Kittitas County,
    - iii. Training: Elmview may provide training to increase the job related skills and knowledge of staff, providers, volunteers, or interning students in the provision of services to people with developmental disabilities. Training may also be provided for County board and advisory committee members.
    - iv. Information and Education: Elmview may provide activities to inform and/or educate the general public about developmental disabilities and related services. If Elmview chooses to provide these services then activities must include outreach efforts to federally recognized local tribes. These may include information and referral services; activities aimed at promoting public awareness and involvement; and community consultation, capacity building and organization activities.
    - v. Special Projects: Elmview may provide special projects and demonstrations. These projects will be described in the Service Information Form and approved in writing by DDD prior to project implementation. Special projects are categorized into the following types:
      - Infrastructure projects: Projects in support of clients (services not easily tracked back to a specific working age client) or that directly benefit a client(s) but client is not working age. . Examples include planning services like benefits planning and generic job development i.e. Project Search,
      - Start-up projects: Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administrative support.

Partnership project: Provides funding to counties to develop collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn 21.

## 2) Direct Client Services

- i. Child Development Services: If Elmview provides Child Development Services to eligible children, birth to three, and their families, they must provide those services under the regulations implementing the Individuals with Disabilities Education Act (IDEA), Part C and Washington State's Infant Toddler Early Intervention Program Federally Approved Plan. This information can be viewed at <http://www1.dshs.wa.gov/iteip>. The services will be provided in collaboration with the Local Lead Agency and in accordance with the local early intervention plan and interagency agreement(s) per Chapter 70.195 RCW

To be eligible for Child Development Services a child must meet DDD eligibility requirements set out in WAC 388-823-0800 through 850.

- ii. Community Access: Community Access services are for people with developmental disabilities ages 62 and older who have retired or who choose not to work and need assistance to access services in the community. Services are provided in the community to enhance or maintain the persons' competence, integration, physical or mental skill. Services assist individuals to participate in integrated activities, events and organizations in the local community in ways similar to others of similar age.
- iii. Individual Supported Employment: These services are part of an individual's pathway to employment. Individual Supported Employment services help a person with developmental disabilities obtain and continue integrated, individual employment in the local community. These services may include creating work opportunities through job development, support to the employee's supervisors and/or peer workers to enable them to support the person on the job, on-the-job training, and modification of work site or tasks, employment retention and follow along support, and development of career and promotional opportunities.
- iv. Group Supported Employment: These services are a part of a pathway to Individual Supported Employment. Group Supported employment service includes the activities outlined in Individual Supported Employment. These are supervised employment activities for groups of no more than eight (8) workers with disabilities. The workers are individuals who have a demonstrated need for ongoing supervision and support in order to maintain employment. Typical program examples include enclaves, mobile crews, and other business-based programs employing small groups of workers with disabilities in integrated employment.
- v. Pre-Vocational Services: These services are a part of a pathway to Individual Supported Employment. Pre-Vocational services, often called sheltered workshops because of the segregated setting in which the work takes place, generally provide training and skill development to groups of people with disabilities in the same setting.
- vi. Person- to- Person: - These services are a part of an individual's pathway to Individual Supported Employment. A client exclusively in Person- to- Person is not yet employed or is not stable in employment. If stable, the client should move to the appropriate service category. Person to Person supports and services may be needed to assist people with:

Initial Planning: System overview, development of a person centered employment plan and/or preparing an individualized budget.

Technical Assistance Services: These services are provided by professionals specialized in an area that would benefit a client to move further on their pathway to employment. An example is assistive technology or a behavior specialist.

Discovery: Job preparation, exploration and/or volunteering in the community to achieve integration and employment.

**g. Program Outcomes:**

1) Direct Client Services

- i. Clients in Community Access should average fifteen (15) hours of service and or activities per month. The amount of service a client receives should be based on his/her demonstrated need and acuity level. A client receiving Community Access services will not receive employment support simultaneously. A client may choose to move to an employment service at any time.
- ii. Clients in an employment programs will be supported to work towards a living wage. A living wage is the amount needed to enable an individual to meet or exceed his or her living expenses. Clients' employment should average twenty (20) hours work per week or eighty-six (86) hours per month. The amount of service a client receives should be based on his/her demonstrated need and acuity level.
- iii. Prior to beginning service the provider will clearly communicate to the client the minimum and maximum service hours per month they can expect to receive. The service provider will also communicate the service hour information through Elmview to the County. If a change in the minimum and/or maximum service hour(s) is expected, the client will be informed prior to the change. The client minimum and maximum service hour(s) will correlate with the CMIS Planned Rates information. The client semi-annual progress reports currently referenced in DDD Policy 4.11 (County Services for Working Age Adults) will also include the client service hours received from the provider.
- iv. All clients will be contacted by their service provider according to client need or at least once per month. Clients in Person to Person will be considered stable in their job if they have been employed consecutively for six months.
- v. If clients in Individual Employment or Person to Person have not obtained paid employment within six (6) months the County will assure the following steps are taken:
  - (a) Review of the progress towards employment goals;
  - (b) Consultation with the family/client; and
  - (c) Development of additional strategies with the family/client, county staff, and employment support staff and the case manager. Strategies may include providing technical assistance, changing to a new provider, and/or providing additional resources as needed to support the individual's pursuit of employment. The additional/new strategies will be documented for each client and kept in the client's file(s).
- vi. If, after twelve (12) months the client remains unemployed an additional review will be conducted. The provider will address steps outlined in the previous six month progress report in the next six month progress report. The client may request to participate in Community Access activities or the client can choose to remain in an employment program.

## 7. Consideration

- a. Approval of Fees — DDD Responsibility: The DDD Region reserves the right to approve fees/rates the County pays for the service being provided by Elmview. The rate schedule should align to a client's demonstrated need and acuity level. Elmview, on behalf of the County, will submit a fee/rate schedule with the initial County Program agreement. Elmview will submit on behalf of the County an updated fee/rate schedules to the DDD Region for approval as changes occur.
- b. Exhibit A – Budget: Budget amount listed in Exhibit A – Elmview may not exceed the state revenue dollar amount or the federal revenue dollar amount indicated on the Program Budget Agreement “Exhibit A”.
- c. Changes Impacting the County or Elmview:

### Change Notification:

#### The DDD Region shall:

- Inform and include the County in the discharge planning of individuals leaving institutions and returning to the community, and who will need program funding;
- Inform the County of individuals who are no longer eligible;
- Inform the County of individuals who have had their waiver status changed;
- Work with the County when referring individuals for services;
- Work with the County to document planned services;
- Work with the County when terminating services; and
- Work with the County on Spending Plan adjustments.
- Inform client through Plan Action Notice(s)

#### The County shall:

- Work with the DDD Region when individuals are referred for services;
- Work with the DDD Region to document planned services;
- Inform the Region of any potential service level changes not documented in the individuals DD Assessment;
- Work with the DDD Region-regarding service termination;
- Work with the DDD Region on Spending Plan adjustments, and
- Inform the DDD Region of new providers to be included on the CMIS system.

## 8. Billing and Payment

- a. County Program Agreement Budget: The County shall pay Elmview all allowable costs (with the exception in 8e), as defined in the current DDD Budget Accounting and Reporting System (BARS) Manual Supplement. Reimbursement for Fiscal Year (FY) 10 and FY 11 shall not exceed the revenue for each of the FY's revenues listed in Exhibit A to the attached Program Agreement and the portion of the millage received by the County and designated for support of people with developmental disabilities. However, with a program agreement amendment, the parties may increase or decrease the program agreement amount.
- b. Compliance with BARS Policies: Elmview shall take any necessary and reasonable steps to comply with the currently effective DDD BARS Supplement manual incorporated by reference herein.
- c. Monthly Invoices with Documentation: All requests for reimbursement by Elmview for performance

hereunder must be submitted on a DSHS A-19 invoice with required documentation that includes the County Billing Summary generated through the CMIS system. All requests for reimbursement amounts must be entered into the CMIS system. The County may submit a combined claim of all programs/services covered by this agreement. The A-19 and the County Billing Summary amounts must match or the Region may request a corrected billing.

- d. A claim for each individual is made on the CMIS system documents by indicating the number of service units delivered to each individual listed and the fee per unit. A unit is defined as:

An "Hour" is at least fifty (50) minutes of direct service. Partial hour to the quarter may be recorded;  
or

A "Day" is at least four (4) hours of direct service; or

A "Month" is at least fifteen (15) days of direct service (a day is at least 4 hours of direct service), or a documented range of service hours (to include in the fee/rate schedule).

- e. Administration: The County will provide program administration and bill Elmview on a quarterly basis for administrative costs allowed under BARS 568.10. Administrative costs will not exceed 7% of the total County Program Agreement, unless the director of DDD makes an exception under WAC 388-850-045 or the Contractor is exempt per 388-850-040. Quarterly claims for administrative costs will be based on the actual administrative costs incurred up to the maximum 7% of the total County Program Agreement, unless an exception for a higher percentage is in place.
- f. Elmview's billing must not exceed the allowable costs in the attachments and Exhibit A of the attached Program Agreement. Elmview agrees to bill only for services provided and further agrees that such payments shall be full consideration for those services and the administrative duties required by this contract.
- g. Timeliness of and Modification to Billings: All initial invoices with documentation must be received by the DDD Region within sixty (60) calendar days following the last day of the month in which the service is provided. Corrected invoices and documentation will be accepted throughout the fiscal year as long as they are received within sixty (60) calendar days of the associated fiscal year unless an extension is approved by the DDD Regional Administrator or designee. Payment will not be made on any invoice submitted past the 60 calendar days of the contract fiscal year.
- h. Elmview's compensation under this agreement shall be limited to money's received from DDD pursuant to the attached Program Agreement and that portion of the millage received by the County and designated for support of people with developmental disabilities as provided in Section 8a of this agreement less any County administrative charges in excess of those charges billed as stipulated in Section 8e. If the County does not receive payment or millage for any reason, it shall not be obligated to provide other funds and Elmview agrees that it will not receive payment. Elmview agrees to assist as needed to ensure that payment is received from DDD.

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

10. **Recovery of Fees:** If Elmview bills and is paid fees for services that DSHS later finds were (a) not delivered or (b) not delivered in accordance with applicable standards, DSHS shall recover the fees for those services and Elmview shall fully cooperate during the recovery.

11. **Quality Assurance & Evaluation.**

- a. Service Review and Evaluation System: Elmview shall develop and have available for review a Service Review and Evaluation System. The evaluation system shall include the quality assurance, Criteria for an Evaluation System of July 1, 2009, and quality improvements. A copy of such evaluation system shall be provided upon request to the DDD for review and approval.

- b. **County On-Site Evaluation and Review:** The County shall evaluate and review services delivered to reasonably assure compliance with this County Program Agreement. The County shall conduct at least one on-site visit to each subcontractor during the period of this Program Agreement. The County shall maintain written documentation of all evaluations and reviews of on-site visits. Copies of such documentation will be provided to the DDD Office upon request. Section 5 (g) addresses Elmview's responsibilities with include full assistance with these Evaluation and review.

## 12. Sub-Contracting

- a. Elmview recognizes that under the attached Program Agreement the County has obligations relative to subcontracting that may effect this agreement.
- b. Elmview will assist with the creation of RFPs if requested by the County. Such assistance may include, at a minimum, drafting scope of works.
- c. Elmview will enter into and monitor sub-contracts at the direction of the BOCC to ensure the delivery of agreed upon services.

**14. Single State Medicaid Agency—DSHS.** DSHS, as the single state Medicaid Agency, has administrative authority for Title XIX coverage of services for people with developmental disabilities per 42 CFR 431.10. Elmview only has responsibility for services covered in this agreement.

**15. DSHS/DRW Access Agreement:** The DRW February 27, 2001 Access Agreement with the DDD is incorporated by reference. Elmview assures that it and its subcontractors have reviewed the Access Agreement. The agreement covers DRW's access to individuals with developmental disabilities, clients, programs and records, outreach activities, authority to investigate allegations of abuse and neglect, other miscellaneous matters, and is binding for all providers of DDD contracted services.

## 16. Management Information System

- a. Elmview will provide all data described in the County Billing Instructions and in the Employment Instructions.
- b. Elmview will assist the County as requested in using the CMIS data system for all billing requests, service provider address and phone number maintenance, evaluation dates and to provide employment outcome information.
- c. Elmview will assure the integrity of data submitted. When data is submitted and rejected due to errors they will be corrected and resubmitted within thirty days.
- d. DDD has agreed to provide a helpline on the use of the data system.

## 17. General Provisions

- a. **INDEPENDENT STATUS:** For purposes of this Agreement, Elmview acknowledges that Elmview is not an officer, employee, or agent of the County or the State of Washington. Elmview shall not hold out themselves or any of Elmview's employees as, nor claim status as, an officer, employee, or agent of DSHS, the State of Washington, or the County. Elmview shall not claim for themselves or Elmview's employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington or the County.
- b. Elmview shall indemnify and hold harmless the County and DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of Elmview or Elmview's employees. Elmview shall defend, indemnify and hold the County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors, or omissions of Elmview in performance of this Agreement, except for injuries and damages caused by the sole negligence of the County.



- c. **Workers Compensation:** Elmview shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage shall be provided for all employees of Elmview. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Agreement. Except as prohibited by law, the Elmview waives all rights of subrogation against the County for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.
- d. **SURVIVABILITY:** The terms and conditions contained in the Agreement, which by their sense and context, are intended to survive the expiration of the Agreement shall so survive. Surviving terms include, but are not limited to: Confidentiality, Indemnification and Hold Harmless, Inspection, Maintenance of Records, Ownership of Material, Termination for Default and Termination Procedure.
- e. **TERMINATION DUE TO CHANGE IN FUNDING:** If the funds upon which the County relied to establish this Agreement are withdrawn, reduced, or limited, or if additional or modified conditions are placed on such funding, the County may immediately terminate this Agreement by providing written notice to Elmview. The termination shall be effective on the date specified in the notice of termination.
- f. **TERMINATION FOR CONVENIENCE:** Either party may terminate this Agreement in whole or in part, for any reason, by giving at least thirty (30) calendar days' written notice. In the event of termination, each party shall be responsible only for the performance in accordance with the terms of this Agreement rendered prior to the effective date of termination. Elmview shall assist in the orderly transfer/transition of the patients served under this Agreement.
- g. **TERMINATION FOR DEFAULT:**
  - 1) **Elmview Failure to Perform:** The County may terminate this Agreement for default, in whole or in part, by written notice to Elmview, if the County has a reasonable basis to believe that Elmview has: failed to meet or maintain any requirement for contracting with the County; failed to perform under any provision of the Agreement; failed to ensure the health or safety of any patient for whom services are being provided under the Agreement; violated any law, regulation, rule, or ordinance applicable to the services provided under this Agreement; and/or otherwise breached any provision or condition of the Agreement.
  - 2) **Notification to Elmview:** Before the County may terminate the Agreement for default, the County shall provide Elmview with written notice of Elmview's noncompliance with the Agreement and provide Elmview a reasonable opportunity to correct Elmview's noncompliance. If Elmview does not correct Elmview's noncompliance within the period of time specified in the written notice of noncompliance, the County may then terminate the Agreement. However, the County may terminate the Agreement for default without such written notice and without opportunity for correction if the County has a reasonable basis to believe that a patient's health or safety is in jeopardy, or if Elmview has violated any law, regulation, rule, or ordinance applicable to the services provided under the Agreement.
  - 3) **County Failure to Perform:** Elmview may terminate this Agreement for default, in whole or in part, by written notice to the County, if Elmview has a reasonable basis to believe that the County has: failed to meet or maintain any requirement for contracting with Elmview; failed to perform under any provision of the Agreement; violated any law, regulation, rule, or ordinance applicable to the services provided under this Agreement; and/or otherwise breached any provision or condition of the Agreement.
  - 4) **Notification to County:** Before Elmview may terminate the Agreement for default; Elmview shall provide the County with written notice of the County's noncompliance with the Agreement and provide the County a reasonable opportunity to correct the County's noncompliance. If the County does not correct the County's noncompliance within the period of time specified in the written notice of noncompliance, Elmview may then terminate the Agreement.
- h. **TERMINATION PROCEDURE:** The following provisions apply in the event this Agreement is terminated:
  - 1) **Cease Performance:** Elmview shall cease to perform any services required by the Agreement as

of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of patients, distribution of property, and termination of services.

2) **Delivery of Assets:** Elmview shall immediately deliver to the County contact person (or to his or her successor) listed on the first page of the Agreement, all County assets (property) in Elmview's possession, including any material created under the Agreement. Upon failure to return County or DSHS property within ten (10) working days of the Agreement termination, Elmview shall be charged with all reasonable costs of recovery, including transportation. Elmview shall protect and preserve any property of the County or DSHS that is in the possession of Elmview pending return to the County. Nothing in this paragraph shall limit the County's rights pursuant to this Agreement or law, nor shall limit the County's remedies at law.

3) **Payment of Services:** The County shall be liable for and shall pay for only those services authorized and provided through the date of termination. The County may pay an amount mutually agreed upon by the parties for partially completed work and services, if work products are useful to or usable by the County.

4) **Final Payment:** If the County terminates the Agreement for default, the County may withhold a sum from the final payment to Elmview that the County determines to be necessary to protect the County from loss or additional liability. The County shall be entitled to all remedies available at law, in equity, or under the Agreement. If it is later determined that Elmview was not in default, Elmview shall be entitled to all remedies available at law, in equity, or under the Agreement.

- i. **WAIVER:** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement unless amended as set forth in the Amendment provisions of this Agreement. Only the County, or its designee, has the authority to waive any term or condition of this Agreement on behalf of the County. The failure of the County to insist upon the strict performance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.
- j. **SEVERABILITY:** The provisions of the Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions of the Agreement.
- k. **CONFIDENTIALITY:** The parties to this Agreement shall use Personal Information and other information gained only for the purpose of the Agreement. Elmview shall not disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information, without the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other information gained by reason of the Agreement and shall, to the extent permitted by law, return or certify the destruction of such information if requested in writing by the party to the Agreement that provided the information.
- l. **RECORDS MAINTENANCE AND INSPECTION:**
  - 1) **Records Maintenance:** For six (6) years, unless otherwise stated herein, following the termination of this Agreement, Elmview shall maintain records that are sufficient to:
    - i) document the performance of all acts required by law, regulation, or this Agreement;
    - ii) substantiate Elmview's statement of its organization's structure, tax status, capabilities, and performance;
    - iii) demonstrate accounting procedures and practices which sufficiently and properly document Elmview's billings to the County and all expenditures made by the Elmview to perform as required by this Agreement;
    - iv) ascertain that personnel policies, procedures and practices are in compliance with this Agreement; and
    - v) ascertain that all taxes and insurance required by State and Federal law and this Agreement were paid by Elmview.

2) **Right of Inspection:** Elmview shall give access to its facilities and records to the County, its officers, employees or agents, and to any other authorized officer, employee or agent of the State of Washington or the United States at all reasonable times. Authorized persons shall have the right to examine Elmview's performance and financial records and perform other activities to determine Elmview's compliance with the terms of this Agreement. The County shall give Elmview reasonable notice of monitoring, auditing, observation and other visits by its officers and employees to Elmview's place(s) of business.

3) **Notice of Inspections:** The Contactor shall verbally notify the County immediately of any inspections, audits, accreditation, or program reviews of services by any individual, agency, or governmental unit, and to promptly provide the County with copies of any written reports of such inspections, audits, accreditation or program reviews.

Signature\_\_\_\_\_ Date\_\_\_\_\_  
Paul Jewell-Chairman  
Kittitas County Board of County Commissioners

Signature\_\_\_\_\_ Date\_\_\_\_\_  
Bruce Tabb, Executive Director  
Executive Director, Elmview

## Exhibit A- Data Security Requirements

1. Data Transport. When transporting DSHS Confidential Information electronically, including via email, the data will be protected by:
  - a. Transporting the data within the (State Governmental Network) SGN or contractor's internal network, or;
  - b. Encrypting any data that will be in transit outside the SGN or contractor's internal network. This includes transit over the public Internet.
2. Protection of Data. The contractor agrees to store data on one or more of the following media and protect the data as described:
  - a. Hard disk drives. Data stored on local workstation hard disks. Access to the data will be restricted to authorized users by requiring logon to the local workstation using a unique user ID and complex password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
  - b. Network server disks. Data stored on hard disks mounted on network servers and made available through shared folders. Access to the data will be restricted to authorized users through the use of access control lists which will grant access only after the authorized user has authenticated to the network using a unique user ID and complex password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS confidential data stored on these disks, deleting unneeded data is sufficient as long as the disks remain in a secured area and otherwise meets the requirements listed in the above paragraph. Destruction of the data as outlined in Section 4. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the secure environment.
  - c. Optical discs (COs or DVDs) in local workstation optical disc drives. Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a secure area. When not in use for the contracted purpose, such discs must be locked in a drawer, cabinet or other container to which only authorized users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
  - d. Optical discs (COs or DVDs) in drives or jukeboxes attached to servers. Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a secure area. Access to data on these discs will be restricted to authorized users through the use of access control lists which will grant access only after the authorized user has authenticated to the network using a unique user ID and complex password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
  - e. Paper documents. Any paper records must be protected by storing the records in a secure area which is only accessible to authorized personnel. When not in use, such records must be stored in

a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

- f. Access via remote terminal/workstation over the State Governmental Network (SGN). Data accessed and used interactively over the SGN. Access to the data will be controlled by DSHS staff who will issue authentication credentials (e.g. a unique user ID and complex password) to authorized contractor staff. Contractor will notify DSHS staff immediately whenever an authorized person in possession of such credentials is terminated or otherwise leaves the employ of the contractor, and whenever a user's duties change such that the user no longer requires access to perform work for this contract.
- g. Access via remote terminal/workstation over the Internet through Secure Access Washington. Data accessed and used interactively over the SGN. Access to the data will be controlled by DSHS staff who will issue authentication credentials (e.g. a unique user ID and complex password) to authorized contractor staff. Contractor will notify DSHS staff immediately whenever an authorized person in possession of such credentials is terminated or otherwise leaves the employ of the contractor and whenever a user's duties change such that the user no longer requires access to perform work for this contract.
- h. Data storage on portable devices or media.

(1) DSHS data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the Special Terms and Conditions of the contract. If so authorized, the data shall be given the following protections:

- (a) Encrypt the data with a key length of at least 128 bits
- (b) Control access to devices with a unique user ID and password or stronger authentication method such as a physical token or biometrics.
- (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of **inactivity is 20 minutes.**

Physically protect the portable device(s) and/or media by

- (d) Keeping them in locked storage when not in use
  - (e) Using check-in/check-out procedures when they are shared, and
  - (f) Taking frequent inventories
- (2) When being transported outside of a secure area, portable devices and media with confidential DSHS data must be under the physical control of contractor staff with authorization to access the data.
- (3) Portable devices include, but are not limited to; handhelds/PDAs, Ultramobile PCs, flash memory devices (e.g. USB flash drives, personal media players), portable hard disks, and laptop/notebook computers if those computers may be transported outside of a secure area.
- (4) Portable media includes, but is not limited to; optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape, Zip or Jaz disks), or flash media (e.g. CompactFlash, SD, MMC).

### 3. Data Segregation.

- a. DSHS data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the contractor, all DSHS data can be identified for return or destruction. It also aids in determining whether DSHS data has or may have been compromised in the event of a security breach.
  - b. DSHS data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. Or,
  - c. DSHS data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS data. Or,
  - d. DSHS data will be stored in a database which will contain no non-DSHS data. Or,
  - e. DSHS data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records. Or,
  - f. When stored as physical paper documents, DSHS data will be physically segregated from non-DSHS data in a drawer, folder, or other container.
  - g. When it is not feasible or practical to segregate DSHS data from non-DSHS data, then both the DSHS data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.
5. Data Disposition. When the contracted work has been completed or when no longer needed, except as noted in 2.b above, data shall be returned to DSHS or destroyed. Media on which data may be stored and associated acceptable methods of destruction are as follows:

Data Stored on	Will be destroyed by:
Server or workstation hard disks or removable medias (e.g. floppies, USB flash drives, portable hard disks, Zip or similar disks)	<ul style="list-style-type: none"> <li>Using a “wipe” utility which will overwrite the data at least three times using either random or single character data, or,</li> <li>Degaussing sufficiently to ensure that the data cannot be reconstructed or</li> <li>Physically destroying the disk.</li> </ul>
Paper documents with sensitive or confidential data	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of data will be protected.
Paper documents containing confidential information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs,(e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive.
Magnetic tape	Degaussing, incinerating, or crosscut shredding

Notification of Compromise or Potential Compromise. The compromise or potential compromise

**Program Agreement Budget**  
**Exhibit B**

DSHS Contract Number: **1163-35806**

X Original Budget

Revision

Fiscal Year	BARS Revenue Code	Fund Source	Original	1 <sup>st</sup> Revision	2 <sup>nd</sup> Revision	3 <sup>rd</sup> Revision
2012	334	State	154,991			
	335	Federal	171,300			
		Total	326,291			