

2024 eitas Services Contract

SERVICES CONTRACT

This Services Contract (the "Contract") is made by Developmental Disability Services of Jackson County – EITAS a governmental body ("eitas") organized pursuant to Chapter 205 of the Revised Statutes of Missouri (as amended from time to time, the "Statutes", and the nonprofit corporation ("Provider") identified on the specific terms of Services Contract that constitutes the Addendum to this contract (the "Addendum"). The parties acknowledge and agree as set forth herein.

1. Acknowledgements

Provider has submitted a proposal to eitas regarding:

One, the operation by Provider of a community engagement program for "Eligible Persons" (as defined in Section 7(a) of the Contract); and,

Two, the conduct by Provider of program(s) designed to enable Eligible Persons to progress toward typical living and to develop their capacity, performance, and relationship with other persons (the "Proposal").

eitas is willing to provide financial assistance to Provider, in accordance with and subject to the terms and conditions of this Contract, to support these operations and programs.

2. Representations and Warranties

a) Provider represents, warrants, and expressly agrees to and with eitas that:

(i) Providers' name, office address and other identifying information as set forth on the Addendum are true and, correct;

(ii) Provider is a Missouri nonprofit corporation and a "public benefit" corporation as such term is used in Chapter 355 of the Statutes, and Provider has the corporate power and authority necessary for it to enter into this Contract and provide the "Services" (as defined in Section 3(d) of this Contract;

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MARY JO SPINO
COUNTY CLERK

- (iii) Provider is recognized as by the Internal Revenue Service as an organization that is tax-exempt under Section 501(a) of the Internal Revenue Code of 1986 (the "Code") because it is described in Section 501(C)(3) of the Code, and Provider is not a private foundation under Section 509 of the Code;
 - (iv) Provider's actions in entering into this Contract and performing the services are consistent with Provider's tax-exempt purposes;
 - (v) Provider has all licenses and permits necessary to provide the services; and
 - (vi) All information that Provider has provided to eitas either prior to or contemporaneously with the signing of this Contract, including the documents furnished by Provider to eitas as described in the Addendum, is true and correct.
- b) Provider shall promptly provide written notice to eitas' Agency Relations Supervisor each time that any of the representations, warranties, and agreements made in Section 2(a) ceases to be completely true and correct.

3. Services Provided Under Contract

- a) The parties agree that Provider shall perform the services described in the Proposal, but subject in all respects to the terms and conditions of this Contract.
- b) Reserved for sheltered workshop providers**
- c) Also without limiting the generality of the foregoing provisions regarding the services that are to be provided by Provider, Provider shall perform each of the tasks, if any, described in the Addendum prior to the end of the time period that is applicable to such task, if any, as set forth in the Addendum; provided if no such time period is indicated, Provider shall complete such task during such time period as directed by eitas from time to time.

- d) Whenever input or approval of eitas is required or should be obtained in connection with the performance of any services or tasks to be performed by Provider under Sections 3(a), 3(b) or 3(c) (Collectively the "Services"), the input or approval of eitas shall only be considered to have been obtained or given if input or approval is obtained from or given by eitas' Executive Director or Agency Relations Supervisor in writing.
- e) Provider may not, without eitas' prior written consent; subcontract with others to perform the Services that Provider is required to perform under this Contract. Notwithstanding the preceding sentence, when Provider's work force cannot perform a contract secured by Provider for persons with developmental disabilities, Provider may subcontract with other entities that primarily employ residents of Jackson County, Missouri with developmental disabilities to perform portions or all of such contract and, if there are not such entities or Provider is unable to enter into adequate subcontracts with such entities, then Provider may subcontract with other entities to perform such portions or all of such contract. Provider shall give eitas' Agency Relations Supervisor notice within 60 days after June 30 and December 31 during the Term of any subcontracts made by Provider during the six-month period then ended.

4. Time Period for Provision of Services - Term

- a) Provider shall provide the Services as prescribed by the proposal during the calendar year as set forth on the Addendum (the "Term").
- b) All of the representations and warranties made by Provider in this Contract shall be true and correct during the Term. All obligations of Provider under this Contract shall be in effect during the Term. Provider's obligations under this Contract shall continue in effect following the end of the Term to the extent necessary to effectuate the express provisions of this Contract (e.g., Provider's obligation under Section 6(b) of this Contract to provide to eitas a list of all persons served in its programs).

5. Compensation – Expenses

- a) As full payment for the performance of the Services, and a full consideration for the other representations, warranties, and agreements made by Provider herein, eitas will pay Provider a specific amount of compensation as specified on the Addendum, provided, the amount of compensation paid by eitas to Provider under this Contract with respect to the Term shall not exceed a specified maximum amount. The maximum amount of compensation that may be paid under this Contract, during the Term is set forth in the Addendum. E itas will not separately reimburse Provider for any out-of-pocket expenditures incurred by Provider.
- b) Provider shall, within 15 days following the end of each month during the Term, deliver to eitas' Accounting Department an invoice for compensation due under this Contract for the preceding month. Invoices received after the 15th day of the following month will not be paid. Each such invoice shall provide information about the services provided under this Contract for the preceding month that is sufficient for eitas to confirm the amount of compensation owed by eitas to Provider for such month, and each such invoice shall be signed by an appropriate official of Provider and shall be certified by Provider to eitas as being true and correct. Without limiting the generality of the foregoing sentence, each invoice delivered by Provider to eitas shall use the invoice templates provided by eitas and:
 - (i) Include a list of the names of all Eligible Persons who were served by Provider during the prior month that shows the daily attendance during such month by each such Eligible Person. and
 - (ii) In compliance with all requirements under Section 6 of this Contract.
- c) Eitas shall pay each invoice that satisfies the requirements of Section 5(b) within 30 days after it receives such invoice from Provider; provided, no further payments shall be made by eitas to Provider after the maximum amount of compensation that may be paid under this Contract (either for the Term or for any month during the Term).

- d) The following provisions of this Section 5(d) shall apply notwithstanding the provisions of Sections 5(a) through 5(c):
- (i) In the case of any invoice that does not satisfy the requirements of Section 5(b), eitas may notify Provider of the deficiencies and decline to pay such invoice until Provider submits a new invoice that satisfies such requirements or otherwise corrects the deficiencies to eitas' satisfaction. In the case of mathematical or other similar errors in the invoices submitted by Provider to eitas, eitas may correct such errors and pay to Provider the corrected amounts. In the case of other perceived errors in the invoices submitted by Provider to eitas, eitas may, if it so desires, make any appropriate inquiries of Provider regarding the subject matter of the perceived errors and, after consideration of the perceived errors and any information provided by Provider in response to any such inquiries, may correct such errors and pay to Provider the corrected amounts.
 - (ii) If the services are not provided to the reasonable satisfaction of eitas, then eitas will provide written notice to the Provider containing details of the service deficiencies and allowing the Provider reasonable opportunity to cure the indicated deficiencies. If the deficiencies are not cured within an agreed upon time period, then eitas shall not owe Provider the compensation that is described in Sections 5(a) through 5(c).
- e) Eitas may reduce the amount of any payment made by it to Provider in payment of an invoice by the amount of overpayment made by eitas in payment of a prior invoice (taking into account any adjustments in the amount of the prior invoice made by eitas under the provisions of this Contract, including adjustments made after such invoice has been paid).

6. Accountability

- a) Provider shall use the compensation paid to it by eitas to provide services, and Provider shall account to eitas for

Provider's use of such compensation.

- b) Outcomes Measurement System: Provider shall work collaboratively with eitas Agency Relations staff to develop outcomes and measurable performance targets for funded program(s). Quarterly agency will meet with Agency Relations staff to review outcome data and assess program effectiveness.
- c) On a monthly basis, Provider shall submit the results of the approved program outcomes to the eitas Agency Relations Department via online form provided by eitas by the 15th day following the month prior.
- d) Provider shall provide to eitas' Agency Relations Supervisor, within 30 days of receipt, a copy of:

Provider's audited financial statements for such year and the report of Provider's independent certified public accounting firm regarding its opinion of Provider's financial position based upon its audit of such financial statements; and

A management letter provided by such independent certified public accounting firm.

- e) Provider will present to eitas' Agency Relations Staff within 30 days of completion of program year, a copy of an annual program evaluation report using template provided by eitas for Eligible Persons served by agency.
- f) Provider shall afford access to eitas Agency Relations staff to the premises where persons are served, identified individuals, pertinent records and to the guardian or parent where indicated pursuant to the development, review, evaluation, and reporting on successful implementation of the Outcomes Measurement System.
- g) Provider shall have a process and documentation in place to ensure eligibility of persons served. Eitas' Agency Relations staff will review this process annually and collateral documentation of diagnosis as needed. See below for required documentation:

- (i) Full Name;
 - (ii) Date of Birth;
 - (iii) Address (*including county and zip code*);
 - (iv) Method of verification of qualifying disability: Support Coordinator, IEP, CIMOR documentation, or medical collateral;
 - (v) Evidence on site of method of verification
- h) Provider shall permit eitas' Agency Relations staff, Support Coordination staff, and other designated staff, to have access to Provider's facilities at any time and from time to time upon request, to observe Eligible Persons as they participate in Provider's programs.
- i) Provider shall permit eitas' Agency Relations staff or other designated representatives to inspect, at any reasonable time, Provider's financial books and records, and any other records that relate in any way to Provider's compliance with the terms of this Contract. Provider shall also permit eitas' representatives to make copies of any such books and records.

Notwithstanding the preceding sentence, it is expressly agreed that Provider will not provide any information to eitas if and to the extent that providing such information would violate the provisions of the Health Insurance Portability and Accountability Act (HIPAA). Provider shall maintain the confidentiality of all nonpublic information regarding Eligible Persons and other persons with disabilities that comes into its possession as a result of providing the Services.

- (i) Provider shall permit eitas' Agency Relations staff, or other Representatives, to have access to Eligible Persons documentation and records.
- (ii) In the event that eitas representatives (this includes the eitas Executive Director, Agency Relations staff and/or the eitas Facility Manager) become aware of problems or observe situations that are detrimental to Eligible Persons, eitas will provide a written report to Provider detailing the issues.

A written response including an action plan and person(s) responsible for resolution shall be presented to eitas'

Executive Director and Agency Relations Supervisor within a specified time frame.

Failure to address problems and issues brought to the attention of Provider may result in withholding or suspension of eitas funding. Problems or situations determined to be detrimental by Support Coordinators shall be handled as prescribed by the Department of Mental Health, Developmental Disability Division (“DMH-DD”) procedures and policies and/or the Department of Education Special Education (“DESE”) procedures and policies. Any critical improvement plans, or operational improvement plans, required by DMH (Department of Mental Health) – DD (Developmental Disabilities) Division or DESE shall be sent to and reviewed by eitas’ Agency Relations Supervisor and Executive Director who may suspend payments to Provider based upon the seriousness of the problems, until such problems are satisfactorily resolved.

7. Provider’s Operations

- a) The term “Eligible Persons” for purposes of this Contract includes any person who is a resident of Jackson County, Missouri and has a primary diagnosis of a developmental disability. For purposes of the preceding sentence, a developmental disability means either or both of:
 - (i) A disability which is attributable to an intellectual disability, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction, or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for persons with an intellectual disability which originated before age 22 and which can be expected to continue indefinitely; and
 - (ii) A developmental disability defined from time to time in Section 630.005 of the Statutes. Persons with a primary diagnosis of a mental illness shall not be deemed eligible for eitas funding.

- (iii) Determinations of who is a resident of Jackson County, Missouri and an Eligible Person shall, in situations in which there is doubt, and for all purposes of this Contract, be made by eitas.
- b) The only people supported by Provider that will be funded by eitas and may be served by Provider under this Contract are Eligible Persons. However, Provider may support other persons who have disabilities.
- c) Provider shall provide to eitas, when requested, a copy of policies and procedures manuals, and supplements and amendments thereto, as needed.
- d) Provider shall comply with all local, state, and federal laws. Provider will not discriminate against any Eligible Person on the basis of age, sex, religion, race or ethnicity, disability, sexual orientation, or financial status.
- e) In the event that Provider is considering termination of service, suspension, or an involuntary extended leave of absence of an Eligible Person, eitas Agency Relations staff and eitas Support Coordination must be notified before any action is taken for consultation and support in handling the issues to try to avoid detrimental actions and pursue acceptable options.
- f) Provider shall submit eitas Event Report to eitas' Executive Director and Agency Relations staff, within 24 hours after Provider becomes aware of the occurrence of:
- (i) The death of an Eligible Person;
 - (ii) A serious accident involving an Eligible Person;
 - (iii) A serious incident attributed to or involving an Eligible Person;
 - (iv) A life-threatening illness of an Eligible Person;
 - (v) The making of any formal allegations of mistreatment of an Eligible Person; and
 - (vi) Notice of any investigation including but not limited to misuse of funds of an Eligible Person, abuse, neglect, death, or other investigation initiated by DMH, DESE, or any

accreditation, regulatory, or other investigatory body within similar status, in each case within 24-hours after Provider becomes aware of the occurrence of such event. In addition, Provider shall furnish eitas' Executive Director and the Agency Relations staff copies of:

- Any and all reports issued by an investigatory agency promptly, but not to exceed five workdays after receipt, concerning their respective findings;
- Any corrective action plan or quality improvement plan or recommendations issued to Provider as a result of an investigation; and
- Any other Provider response to an investigation.

Provider also agrees to keep eitas' Executive Director and the Agency Relations staff informed of the investigation's course and take steps to secure any documents and/or reports related to an investigation. Provider shall notify eitas' Executive Director and Agency Relations staff within 24 hours of the occurrence of any event that impacts or might impact adversely on Provider's ability to comply fully with the terms and conditions of this contract.

8. Accreditation / Licensure (if applicable)

- a) Provider shall provide to eitas' Agency Relations staff copies of:
- (i) Proof of accreditation and all reports provided to Provider by accreditation agencies or state or local regulatory agencies including any requests for corrective action or quality improvement plans or any other reports and recommendations requiring action by the Provider to meet accreditation or regulatory requirements;
 - (ii) All plans of correction or other similar documents issued to or prepared by Provider in connection with the accreditation or licensure or certification process; and
 - (iii) Any or all changes in the Provider's accreditation or licensure or certification status, in all cases, within five days

after such documents become available.

In addition, Provider will promptly notify eitas' Agency Relations staff of all interviews, investigatory meetings, or other similar meetings with representatives of accreditation agencies or state or local regulatory agencies as soon as such meetings are scheduled, and Provider shall invite eitas' Executive Director and the Agency Relations staff to attend any such meetings.

9. Attributions

All publications, reports and other documentation issued or published by Provider that relate to the services shall include a statement to the effect that such services were provided in part with funds provided by eitas to the Provider. Provider agrees to work with eitas in good faith to assure that such attributions, if any, include the use of the eitas logo, if requested by eitas, and otherwise are acceptable to eitas.

10. Insurance

- a) During the term, Provider shall keep in full force and effect at its expense a policy of public liability insurance with limits of liability not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b) During the term, if Provider operates a supportive employment program, it shall for such supportive employment program keep in full force and effect at its expense a policy or policies of liability insurance with respect to the leased premises and the business of Provider and all subcontractors, licensees, and concessionaries, on terms approved in writing by eitas, with limits of liability not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.

Such policy or policies shall also provide public liability insurance covering both malpractice and errors and omissions. Such policies must provide contractual coverage and include employees, board members, and volunteers of eitas as additional insured. Sexual molestation and physical abuse must be included at least for defense coverage.

- c) Provider shall cause eitas to be named as an additional insured under

Provider's liability insurance policy and policies, with minimum limits as specified in Sections 10(a) and 10(b). Such policies shall provide that they may not be canceled or altered without at least 30 days' prior written notice to eitas.

- d) Provider shall furnish eitas Agency Relations staff with certificates of insurance or other acceptable evidence that the insurance policies required by Sections 10(a) and 10(b) are in effect each time that there is any change in any such policy.

11. Contact with Eligible Persons

Notwithstanding that Provider is an independent contractor and not a partner or agent of eitas, the parties agree that eitas has an interest in Provider's interaction with Eligible Persons. In this regard the following provisions shall apply:

- a) Provider represents and warrants to eitas that as of the date of hiring, each staff member shall have been found by the State of Missouri as having had no substantial allegations of abuse, neglect, or endangerment of an Eligible Person, and further that each Provider's board member, upon application for a board position, has signed a statement confirming that he or she has never abused, neglected, or endangered an Eligible Person.
- b) Provider further represents and warrants to eitas that its management, employees, and agents who come into contact with Eligible Persons in the course of Provider's performance under this Contract will have been carefully chosen, including the use of background checks conducted by a qualified independent third party, so as to minimize any risk of harm to Eligible Persons occurring in the course of such contact.
- c) Provider represents and warrants to eitas that each new staff member has undergone training in human rights and abuse & neglect.

12. Authorization

Provider represents and warrants to eitas that the individual who signs this Contract on behalf of Provider is authorized to do so and such individual by signing this Contract individually so represents and warrants.

13. Indemnification

Both during and after the termination of this Contract the Provider shall protect, save, and keep eitas, and each of its directors, officers, employees, and other representatives, harmless from and indemnify them against any and all claims, demands, actions, damages, losses, costs, judgments, penalties, expenses, and liabilities of any kind or nature (including attorneys' fees and disbursements) that arise out of or in connection with Provider's performance under this Contract or any breach by Provider of any representation, warranty, or agreement made by Provider herein. The provisions set forth in this Section 13 shall survive the termination of this Contract.

14. Relationship of Parties

- a) The parties acknowledge their mutual understanding that the relationship created hereby is an independent contractor relationship and that nothing contained herein shall create (or be represented by the parties as having created) the relationship of partners, principal and agent, employer and employee, or any association other than contracting parties under this Contract. Eitas shall not have the right to control Provider as to the specific means or manner in which Provider discharges its duties hereunder, and Provider shall not have the power or authority to bind or obligate eitas in any manner whatsoever.

Nothing in this Contract shall prevent Provider from performing services for any other person or engaging in other endeavors, to the extent that such performance or engagement does not interfere with the Provider's fulfillment of its obligations pursuant to this contract.

Furthermore, the parties expressly acknowledge and agree that neither Provider nor its employees is entitled to any benefits provided by eitas to its employees, including but not limited to group insurance, liability insurance, disability insurance, paid vacation, sick leave or other leave, retirement plans, and health plans, and that eitas has no obligation to provide workers' compensation coverage for Provider.

- b) It is understood and agreed that since Provider is an independent contractor, it will be Provider's responsibility to provide workers' compensation for its employees who perform services for Provider

pursuant to this Contract and to make required FICA, FUTA, income tax withholding, or other payments related to such employees and to provide eitas with suitable evidence of the same whenever requested. In the event of any claims brought or threatened by any party against eitas relating to the status, acts, or omissions of Provider or its personnel, Provider agrees to cooperate in all reasonable respects, including supporting the assertions of independent contractor status made in this Contract.

15. Termination

The following provisions shall govern the termination of this Contract:

- a) This Contract may be terminated by eitas prior to the end of the Term upon 10 days prior written notice to Provider in the event that:
 - (i) In the sole judgment of eitas, the Provider has failed to perform services in a satisfactory manner; or
 - (ii) Provider breaches any provision of this Contract; provided, however, that eitas must first give written notice to the Provider containing details of the breach and allowing the Provider reasonable opportunity to cure the same.

If the deficiencies are not cured within a specified time period, eitas will notify Provider in writing that the Contract is terminated on a specific date;
 - (iii) In the sole judgment of eitas, the funding available to eitas during the term is significantly less than had been anticipated by eitas at the time the Contract was made and the reduction in funding causes continued performance under the Contract by eitas to be fiscally imprudent.
- b) This Contract may be terminated by Provider prior to the end of the term upon 10 days prior written notice to eitas in the event eitas breaches any provision in this Contract.
- c) The termination of this Contract shall not affect any rights or obligations that arose prior to such termination.
- d) Without limiting the generality of the foregoing, upon the termination of this Contract, eitas' obligations to pay compensation

to Provider shall cease, except that eitas shall make payments to Provider in accordance with the provisions of Sections 5(a) through 5(e) (including in particular the provisions of Section 5(d)) for work done prior to termination. Also, without limiting the generality of the foregoing, Provider's accountability obligations set forth in Sections 6(b) through 6(d) shall continue to be in effect.

16. Notices and Documentation

Any notices or documentation required or permitted to be given under this Contract shall be in writing and considered given when delivered personally or sent by facsimile, upon receipt of electronic confirmation of delivery, or five days after it is mailed by registered or certified mail (return receipt requested), to a party at its respective address listed below, or to such other address as either party may designate by notice to the other.

If to eitas: Developmental Disability Services of Jackson County-EITAS

Attn: Agency Relations
8511 Hillcrest Road
Kansas City, MO 64138

If to Provider: Name and address set forth in the Addendum

17. Miscellaneous

- a) This Contract shall be governed by Missouri law.
- b) This Contract constitutes the parties' entire agreement and supersedes all prior agreements, understanding, and proposals (whether oral or written) concerning the matters specified herein.
- c) No waiver or modification of any of the terms or conditions hereof shall be valid or binding unless in writing and signed by the parties. No waiver by either party hereto of any breach of the Contract shall be deemed a waiver of any further breach or in any way affect any other terms or conditions hereof.
- d) This Contract shall be binding upon and inure to the benefit of eitas and Provider and their respective successors. Provider

acknowledges that the services to be performed under this Contract are of a personal nature, and therefore agrees that this Contract shall not be assigned by Provider (other than its right to receive monies), to any other person or entity without the prior written consent of eitas. Any assignment in violation of this provision shall be null and void.

- e) There are no third-party beneficiaries of this Contract. No third party shall have any rights or claims with respect to or against either of the parties to this Contract under or by reason of the provisions of this Contract.
- f) Any variations in the foregoing provisions applicable to this Contract are set forth in the Addendum.

The parties have executed this Contract to evidence their intent that it be a binding Contract.

Developmental Disability Services of Jackson County – eitas

By: Jorgi McNamara
Jorgi McNamara, Executive Director
Date: January 26, 2024

County Executive Frank White, Jr.

By: [Signature]
Printed Name: Frank White Jr.
Date: 2/29/, 2024

APPROVED AS TO FORM
[Signature]
County Counselor

ATTEST:
[Signature]
Clerk of the County Legislature

Addendum

SPECIFIC TERMS OF SERVICES CONTRACT

Provider Information: (First Paragraph and Section 2(a) (i) of Contract)

Name of Provider: Jackson County Parks + Recreation

Address of Provider: 22807 Woods Chapel Road, Blue Springs MO 64015

Telephone: 816-503-4872

Documents: Provided by Provider to eitas prior to or contemporaneously with signing of said Contract (Section 2(a) (vii) of Contract).

The following documents have been provided by Provider to eitas prior to or contemporaneously with the execution of the Contract:

- Certificates of insurance evidencing the policies required by Section 10 of the Contract
- A listing of all training routinely required for all staff

Service Provider Information: (Section 3(b) of Contract)

Name(s) and address(es) of facilities operated by Provider:

Jackson County Parks + Recreation

22807 Woods Chapel Road

Blue Springs, MO 64015

Services: (Sections 3(c) of Contract)

Specific tasks to be performed by Provider are addressed in the current Proposal and approved by the eitas Board of Directors December 5th, 2023, and as detailed in this Contract.

General Contingency items that must be performed are:

- If Provider has requested to use eitas funding to purchase specific items, hire specific staff positions or use funding in directed ways, eitas may require proof that those funds were used as the Provider's request stated.
- New persons supported by the Provider must be verified as eligible by the Provider prior to that individual's inclusion on an invoice.
- Funding is contingent on Provider's compliance with Section 6 (Accountability) of this Contract.

Specific Contingency items that must be performed are: none

Calendar Year (Section 4 of Contract): January 1, 2024 - December 31, 2024

Compensation: Dependent on Section 5(a) and Section 6 of the Contract:

Community Engagement

Maximum compensation: \$200,000

Maximum monthly compensation: Reimbursable expenses per invoice

Maximum Total Compensation All Services: \$200,000

Name and Address of Provider for Notice Purposes: (Section 16 of Contract)

Jackson County Parks + Recreation

22807 Woods Chapel Road, Blue Springs MO 64015

ATTN: Tina Spallo

Variations in Contract Provisions: (Section 17(f) of Contract)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "Agreement") is entered into as of this 1st day of January 2024 between Developmental Disability Services of Jackson County - eitas ("Covered Entity") and Jackson County Parks + Rec Special Populations ("Business Associate").

WHEREAS, the parties to this Agreement have a relationship ("Engagement") wherein Business Associate provides services to Covered Entity that require Covered Entity to disclose certain information to Business Associate, some of which may constitute Protected Health Information;

WHEREAS, as a result, Covered Entity and Business Associate acknowledge that each party has certain obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, including those provisions of the American Recovery and Reinvestment Act of 2009 ("ARRA"), and the regulations implementing the requirements to maintain privacy and security of Protected Health Information found at 45 C.F.R. Parts 160, 162, and 164 ("HIPAA Regulations"); and

WHEREAS, the parties intend this Agreement to satisfy and reflect compliance with those obligations.

NOW THEREFORE, in consideration of the mutual promises below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Agreement, capitalized terms and phrases that are used herein shall have the same meanings as set forth in the HIPAA Regulations, implementing the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), which definitions are incorporated into this Agreement by reference.

2. **Permitted Use and Disclosure of PHI.** Business Associate shall only Use or Disclose Protected Health Information ("PHI") received from, or created or received on behalf of, Covered Entity consistent with the "minimum necessary" requirements applicable to covered entities set forth in 45 C.F.R. § 164.514(d) and only:

- a) As Required By Law or as permitted or required by this Agreement or Business Associate's services arrangement with Covered Entity (the "Engagement"), but not, pursuant to 45 C.F.R. § 164.502(a)(3), in such a manner that would violate 45 C.F.R. Part 164 if done by Covered Entity;
- b) In circumstances in which PHI has been de-identified in accordance with 45 C.F.R. § 164.514(a)-(c);
- c) To provide Data Aggregation services related to the Health Care Operations of Covered Entity, to the extent that such services are included within the Engagement; and

- d) For the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided the disclosures are Required By Law, or Business Associate obtains reasonable assurances from the Person to whom the information is disclosed that the information will remain confidential and Used or further Disclosed only as Required By Law or for the purposes for which it was disclosed to the Person, and the Person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.

3. **Obligations and Activities of Business Associate.** Pursuant to 45 C.F.R. §§ 164.504 & 164.314, Business Associate shall:

- a) Implement policies, procedures and safeguards to comply with Subpart E of 45 C.F.R. Part 164 and use appropriate Administrative, Physical, and Technical Safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic PHI, to prevent Use or Disclosure of PHI other than as provided by this Agreement;
- b) As soon as reasonably practical, but not later than three (3) business days following discovery thereof, report to Covered Entity any Security Incident or Use or Disclosure of PHI not specifically permitted or required by this Agreement of which Business Associate becomes aware, including any Breach of Unsecured PHI as required by 45 C.F.R. § 164.410, and cooperate with Covered Entity in assessing and mitigating any harmful effects resulting therefrom. Notwithstanding anything to the contrary in the Engagement, Covered Entity reserves the right to obtain reimbursement from Business Associate for Covered Entity's costs in preparing and providing notifications, including, but not limited to, credit monitoring services, and/or other costs incurred by Covered Entity deemed reasonably necessary by Covered Entity to notify its members of a Breach by Business Associate or its subcontractor;
- c) In accordance with 45 C.F.R. §§ 164.308(b)(2) & 164.502(e)(1)(ii), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree, pursuant to a written contract, to the same requirements, restrictions, and conditions that apply to Business Associate with respect to such information;
- d) Within ten (10) business days following a request from Covered Entity, make PHI in a Designated Record Set available to Covered Entity or, as directed by Covered Entity, to an Individual, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524;
- e) Make any amendments to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. § 164.526 and take any other measures necessary to satisfy Covered Entity's obligations thereunder;
- f) Maintain and make available to Covered Entity, within ten (10) business days

following a request therefor, the information required to provide an accounting of disclosures necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528;

- g) To the extent Business Associate is to carry out one or more of Covered Entity's obligations with respect to the privacy or security of PHI, comply with the applicable HIPAA Regulations in the performance of such obligations; and
- h) Pursuant to 45 C.F.R. §§ 160.310(c) & 164.502(a)(4)(i), make its internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received on behalf of, Covered Entity available to the Secretary of Health and Human Services.

4. **Term and Termination.**

- a) **Term.** The term of this Agreement shall be effective as of the effective date of the Engagement, or as of the date Business Associate first receives or creates PHI from or on behalf of Covered Entity, whichever occurs first, and, unless sooner terminated as provided herein, shall continue in effect until the termination of the Engagement.
- b) **Termination.** Pursuant to 45 C.F.R. § 164.504(e)(2)(iii), Covered Entity may at any time terminate this Agreement if Covered Entity determines, in its sole discretion, that Business Associate has violated a material term of this Agreement or any of its required obligations under the HIPAA Regulations.
- c) **Obligations Upon Termination.** Upon the termination of this Agreement for any reason, Business Associate shall return or, if agreed to by Covered Entity, destroy all PHI received from, or created or received on behalf of, Covered Entity that Business Associate (or its agents or Subcontractors) maintains in any form and retain no copies thereof.
- d) **Survival.** This Section 4 shall survive the termination of this Agreement.

5. **Miscellaneous.**

- a) **Regulatory References.** Any reference in this Agreement to a section of the HIPAA Regulations means the section as in effect or as amended.
- b) **Relationship of Parties.** Business Associate is an independent contractor and not an employee or agent of Covered Entity. The parties agree and acknowledge that Covered Entity does not have control over, nor the authority to direct, the operational activities or conduct of Business Associate.
- c) **Construction and Amendment.** The parties agree to amend this Agreement from time to time as is necessary for compliance with the HIPAA Regulations and any other applicable law. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Regulations. In the event one or more of the

provisions contained in this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall be unaffected. This Agreement supersedes all prior agreements and understandings between the parties relating to the subject matter hereof and may only be modified in writing.

- d) **Waiver.** A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.
- e) **Documentation.** Business Associate shall maintain all information and documentation relating to the Engagement and this Agreement for such periods as required by the HIPAA Regulations.
- f) **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself, its agents, and its Subcontractors available to Covered Entity, at no cost, to testify as witnesses or otherwise in the event of litigation or administrative proceeding against Covered Entity or its directors, officers, or employees based upon a claimed violation of HIPAA or the Health Information Technology for Economic and Clinical Health Act, except in circumstances in which Business Associate is named as an adverse party.
- g) **No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, any rights, remedies, or obligations upon any person other than the parties hereto and their respective successors or assigns.
- h) **Notices and Reporting.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed delivered at the time it is hand-delivered or deposited in the U.S. Mail, postage prepaid, certified, or registered mail, return receipt requested, and addressed to the recipient's address as set forth below. Changes to such addresses may be made by written notice as provided in this Section.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed as of the date set forth above.

Covered Entity: eitas

By: Jorgi McNamara

Print Name: Jorgi McNamara

Title: Executive Director

Address: 8511 Hillcrest Road

Kansas City, MO

Business Associate: County Executive Frank White, Jr.

By: Frank White Jr.

Print Name:

Frank White Jr.

Title:

Address: _____

APPROVED AS TO FORM

Whit Schil
County Counselor

ATTEST:

Mary Spino
Clerk of the County Legislature