

**REQUEST FOR APPLICATIONS  
INFORMAL SOLICITATION  
FOR THE WEST TENNESSEE RESIDENTIAL PILOT PROGRAM**

**TENNESSEE DEPARTMENT OF DISABILITY AND AGING**

**I. STATEMENT OF INTENT:**

The State of Tennessee, Department of Disability and Aging, hereinafter referred to as the Department, intends to contract with an organization for the purpose of providing residential services to individuals with intellectual and developmental disabilities in the western grand division, as described in T.C.A. § 4-1-204. This contract shall act as a residential pilot program which will then become a permanent program on January 1, 2032.

**II. GENERAL INSTRUCTIONS:**

**A. Submission of Application:**

1. DIDD is asking for applications to be submitted digitally, via email, to:

Braden Odom  
Director, Special Projects  
Department of Disability and Aging  
E-mail: [braden.odom@tn.gov](mailto:braden.odom@tn.gov)

2. The application shall be received at the above listed e-mail addresses no later than 4:00 p.m. (Central Standard Time), March 31, 2025
3. Submissions should be labeled: *\*Applicant Name\** – *\*Solicitation Title\**

**B. Schedule for Application Evaluation and Award:**

1. Release of Request for Applications	July 1, 2024
2. Pre-response conference	November 4, 2024
3. Final date for written questions from Applicants	January 31, 2025
4. Application due date to the State	March 31, 2025
5. Evaluation Team completes the evaluation and submits recommendations	April 25, 2025
6. Notification and clarifications between the Department and prospective Contractors are completed	May 1, 2025
7. Projected contract start date	July 1, 2025

Note: The Department reserves the right to adjust this schedule as it deems necessary, at its sole discretion.

**C. All communications in reference to this Notice shall be directed to:**

Braden Odom  
Director, Special Projects  
Department of Disability and Aging  
E-mail: [braden.odom@tn.gov](mailto:braden.odom@tn.gov)

D. Contract Duration:

This contract shall begin on the first day of FY 2025 and be evaluated at the beginning of each fiscal year until 2032, at which point the program outlined in the contract shall become permanent.

\*Subject to change dependent on applications received.

E. Funds Available:

There is no funding associated with this program.

III. SCOPE OF SERVICES REQUESTED:

A. Services to be Provided or Procured:

See Attachment A - *Proforma* No-Cost Contract

B. Primary Focus:

The primary focus of the contract is to provide permanent residential services for individuals with intellectual and developmental disabilities which meet the criteria outlined in T.C.A. § 33-2-418. If awarded funding, Contractors shall agree to ensure that the following criteria are met:

- The site in which the Contractors will operate the program is located in a county that has a population between nine hundred twenty-nine thousand (929,000) and nine hundred twenty-eight thousand (928,000), according to the 2020 federal census or subsequent federal census.
- No more than eight (8) individuals with intellectual and developmental disabilities are housed within the same building through this contract.
- The Contractor does not accept reimbursement for its services from any federal healthcare program established pursuant to Title XVIII of the Social Security Act, as amended, or from any Tennessee State healthcare program that receives funding pursuant to Title XIX of the Social Security Act, as amended, or Title XXI of the Social Security Act, as amended.
- The site in which the Contractor shall operate the home is owned by the Contractor and consists of no less than three (3) acres.
- The Contractor shall offer residential services for no more than twenty-four (24) adults with intellectual and developmental disabilities which includes adjacent properties, as adults who reside in an existing independent living, licensed assisted-care living, or licensed nursing home community.
- The Contractor will maintain occupancy levels in the community, which includes adjacent properties, of at least 25% of residents who are adults who are eligible to live in an assisted-care living facility or independent living facility.

- The Contractor will be recognized by the Internal Revenue Service as an entity that is tax exempt pursuant to § 501(c)(3) of the Internal Revenue Code, as amended.
- Each building containing housing units complies with the following:
  - The building contains at least one (1) bedroom for residents and is no more than two (2) stories.
  - No more than two (2) residents occupy any one (1) bedroom, as appropriate, based on the resident's preferences and individualized support plan.
  - Bedrooms are no less than one hundred twenty-five square feet (125 sq. ft.) if occupied by one (1) resident, and no less than two hundred eighty square feet (280 sq. ft.) if occupied by two (2) residents.
  - Each bedroom is adjacent to, or across the hallway from, a full bathroom facility.
  - Each full bathroom contains a shower, a sink, and a toilet.
  - No more than two (2) bedrooms share any one (1) bathroom facility.
  - The building contains at least one (1) separate bedroom and bathroom for us by supervising adults as needed based on the person's individualized support plan.
  - Each building may house no more than four (4) individuals with intellectual and developmental disabilities.
- The building, or if the property contains more than one (1) building, the community, has at least one hundred square feet (100 sq. ft.) of interior common area for each resident. For a community of more than one (1) building, the common areas may be located in one (1) or more buildings connected to other buildings containing housing units by enclosed hallways, sidewalks or walkways, tunnels or bridges or other methods permitted by applicable building codes.
- The participant regularly provides residents with exposure to inclusive opportunities, based on the person's preferences and individualized support plan, that include, but are not limited to, vocational opportunities, recreation, education, and transportation options that are conducted outside of the community and that involve a significant number of persons who are not residents of the community.
- The participant provides meals or a dietary program for residents that can be tailored to the person's individualized support plan.
- The participant assists residents in the development of an individualized support plan.
- The number of housing units contained in any one (1) building does not exceed the number of housing units permitted by applicable zoning requirements.

#### IV. APPLICATION FORMAT:

1. The application must address all portions of this Notice as set forth herein; however, proposers may retype and/or duplicate the forms for application submission, provided the revised format remains in order prescribed and addresses all of the Department's required information which appears in the Department's prepared forms.
2. The Department reserves the right to request clarification or corrections to applications, to reject any and all applications or to cancel this Notice in its entirety at the Department's sole discretion. Any application received which does not meet these General Instructions may be considered to be "Non-Responsive" and the application may be rejected. Any rejection or acceptance of applications is at the sole discretion of the Department.

3. The Department reserves the right to further clarify and/or negotiate with the best evaluated applications, subsequent to award recommendation but prior to contract execution, if such is deemed necessary at the discretion of the Department.

V. MODIFICATIONS FOR CONTRACT:

Any and all changes made to an awarded contract must be submitted to DIDD for approval prior to implementing changes.

VI. SUBJECT TO FUNDS AVAILABILITY:

The award of a contract under this application is subject to the appropriation and availability of State and/or Federal funds.

**ATTACHMENT A – NO-COST CONTRACT**  
**DEPARTMENT OF DISABILITY AND AGING**

**PROGRAM APPLICATION**

PROVIDER AGENCY  
NAME:

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PROVIDER AGENCY  
ADDRESS:

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STREET

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CITY

ZIP CODE

DIRECTOR:

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APPLICATION PREPARED BY:

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POSITION OF PREPARER:

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PHONE NUMBER OF PREPARER:

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E-MAIL ADDRESS OF PREPARER:

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FEDERAL EMPLOYER ID NUMBER:

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**ATTACHMENT A – NO-COST CONTRACT****LOCATION****25 POINTS**

Application includes plans to operate residential pilot facility on a property within the boundary of the largest municipality in a county having a population of not less than nine hundred twenty-nine thousand (929,000) nor more than nine hundred thirty thousand (930,000), according to the 2020 federal census or a subsequent federal census. This property must also consist of no less than three (3) acres.

**QUALIFYING RESIDENTS****25 POINTS**

Application includes a model of service in which the applicant offers residential services to no more than twenty-four (24) additional adults with intellectual and developmental disabilities, and no more than eight (8) individuals with intellectual and developmental disabilities within the same building. Additionally, the applicant commits to maintain occupancy levels in the community of at least twenty-five percent (25%) of residents who are adults who are eligible to live in an assisted-care facility or independent living facility.

**501(C)(3) ORGANIZATION****25 POINTS**

Applicant confirms that they are recognized by the Internal Revenue Service as a 501(c)(3) non-profit organization.

**HOUSING UNIT EVALUATION****25 POINTS**

The applicant ensures that each of the criteria mentioned on page 3 of this document is met for every building that contains housing units that will be used for the residential pilot program.

# ATTACHMENT A – NO-COST CONTRACT

## SCORE CARD

Applicant Name: \_\_\_\_\_

Applicant Contact Information \_\_\_\_\_

### Application Components

Rubric Items	Maximum Score	Score
Location	25	
Qualifying Residents	25	
501(C)(3) Organization	25	
Housing Unit Evaluation	25	
<b>Total</b>	<b>100</b>	

*\*for State use only\**

DDA Evaluator: \_\_\_\_\_

# ATTACHMENT A – NO-COST CONTRACT

 <b>NO COST CONTRACT</b> (no cost contract, involving no monetary obligation between the parties, with an individual, business, non-profit, or government entity of another state or country)			
<b>Begin Date</b>	<b>End Date</b>	<b>Agency Tracking #</b>	<b>Edison ID</b>
July 1, 2025	June 30, 2030	-	
<b>Contractor Legal Entity Name</b>			<b>Edison Vendor ID (optional)</b>
<b>Service Caption</b>			
Residential Pilot Program			
<b>Ownership/Control</b>			
<input type="checkbox"/> Minority Business Enterprise (MBE): <input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American			
<input type="checkbox"/> Woman Business Enterprise (WBE)			
<input type="checkbox"/> Service-Disabled Veteran Enterprise (SDVBE)			
<input type="checkbox"/> Disabled Owned Businesses (DSBE)			
<input type="checkbox"/> Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.			
<input type="checkbox"/> Government <input type="checkbox"/> Non-Minority/Disadvantaged <input type="checkbox"/> Other:			
<b>Selection Method &amp; Process Summary (mark the correct response to confirm the associated summary)</b>			
<input checked="" type="checkbox"/> Competitive Award			
<input type="checkbox"/> Other			
CPO USE - NC			



**ATTACHMENT A – NO-COST CONTRACT**

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF DISABILITY AND AGING  
AND  
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Disability and Aging ("State") and **Contractor Legal Entity Name** ("Contractor") is for the provision of Residential Pilot Program, as further defined in the "SCOPE OF SERVICES." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

**A. SCOPE OF SERVICES:**

- A.1. The Contractor shall provide all services and deliverables ("Scope") as required, described, and detailed in this Contract.
- A.2. The Contractor shall be subject to oversight by the Department of Disability and Aging pursuant to T.C.A. § 52-2-418, which provides authority for the Department to administer the residential pilot program ("the program") which is the basis of this Contract and for the program to be operated under applicable existing Department rules, as well as pursuant to T.C.A. §§ 4-3-2701, 4-3-2702, 52-1-104, 52-1-105, 52-2-103, 52-2-104, 52-2-301, 52-2-302, and 52-2-404, and Tenn. Comp. R. & Regs. 0465-02-01, *et al.* As the administrator of the program, the State shall provide the Contractor documentation detailing its administrative oversight requirements and the obligations of the Contractor for compliance with its oversight requirements.
- A.3. The Contractor agrees to house no more than eight (8) individuals with intellectual and developmental disabilities within the same building.
- A.4. The Contractor shall not accept reimbursement for its services from any federal healthcare program established pursuant to Title XVIII of the Social Security Act, as amended (42 U.S.C. § 1395-1395III), commonly referred to as Medicare, or from any state healthcare program that receives funding pursuant to Title XIX of the Social Security Act (42 U.S.C § 1396-1996w) as amended, or Title XXI of the Social Security Act (42 U.S.C. §§ 1397aa-1397mm), as amended, commonly referred to as Medicaid.
- A.5. To be eligible to participate in this program, the Contractor must:
- (A) Utilize a site for the pilot program that:
- (i) Provides residential services on a site located within the boundary of the largest municipality in a county having a population of not less than nine hundred twenty-nine thousand (929,000) nor more than nine hundred thirty thousand (930,000), according to the 2020 federal census or a subsequent federal census;
- (ii) Consists of no less than three (3) acres;
- (iii) Offers residential services for no more than twenty-four (24) adults with intellectual and developmental disabilities in the same community, which includes adjacent properties, as adults who reside in an existing independent living, licensed assisted-care living, or licensed nursing home community; and

## ATTACHMENT A – NO-COST CONTRACT

- (iv) Maintains occupancy levels in the community, which includes adjacent properties, of at least twenty-five percent (25%) of residents who are adults who are eligible to live in an assisted-care living facility or independent living facility; and
- (B) Be recognized by the Internal Revenue Service as an entity that is tax exempt pursuant to §26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as amended.
- A.6. The Contractor agrees that they may only operate a residence for persons with intellectual and developmental disabilities if:
- (A) Each building containing housing units complies with the following:
    - (i) The building contains at least one (1) bedroom for residents and is no more than two (2) stories;
    - (ii) No more than two (2) residents occupy any one (1) bedroom, as appropriate, based on the resident's preferences and individualized support plan;
    - (iii) Bedrooms are no less than one hundred twenty-five square feet (125 sq. ft.) if occupied by one (1) resident, and no less than two hundred eighty square feet (280 sq. ft.) if occupied by two (2) residents;
    - (iv) Each bedroom is adjacent to, or across the hallway from, a full bathroom facility;
    - (v) Each full bathroom contains a shower, a sink, and a toilet;
    - (vi) No more than two (2) bedrooms share any one (1) bathroom facility;
    - (vii) The building contains at least one (1) separate bedroom and bathroom for use by supervising adults as needed based on the person's individualized support plan; and
    - (viii) Each building may house no more than eight (8) individuals with intellectual and developmental disabilities;
  - (B) The building, or if the property contains more than one (1) building, the community, has at least one hundred square feet (100 sq. ft.) of interior common area for each resident. A common area includes, but is not limited to, kitchen, laundry, living rooms, community area, game rooms, and other common areas for use by residents. If the community consists of more than one (1) building containing housing units, the common areas may be located in one (1) or more buildings connected to the other buildings containing housing units by enclosed hallways, sidewalks, or walkways, tunnels or bridges, or other methods permitted by applicable building codes;
  - (C) The Contractor regularly provides residents with exposure to inclusive opportunities, based on the person's preferences and individualized support plan, that include, but are not limited to, vocational opportunities, recreation, education, and transportation options that are conducted outside of the community and that involve a significant number of persons who are not residents of the community;
  - (D) The Contractor provides meals or a dietary program for residents that can be tailored to the person's individualized support plan, including protecting the person's autonomy to choose their meal schedule and individualized dietary restrictions, as applicable;
  - (E) The Contractor assists residents in the development of an individualized support plan; and

## ATTACHMENT A – NO-COST CONTRACT

- (F) The number of housing units contained in any one (1) building does not exceed the number of housing units permitted by applicable zoning requirements.
- A.7. If the Contractor proposes to build facilities in order to participate in the pilot program, the Contractor must complete the facilities necessary to participate in the pilot program on or before June 30, 2028. Contractor shall comply with the applicable requirements for licensure for services or facilities, as the case may be, prior to accepting residents.
- A.8. No later than July 1 each year, each pilot participant shall provide the Department with the following information:
- (A) The number of residents who participate in the pilot program at Contractor's location;
  - (B) The number of residents meeting any goals established for the resident as part of the resident's individualized support plan;
  - (C) Data collected from the National Core Indicators or other nationally recognized survey instruments; and
  - (D) Data collected from a survey of therapists and other third-party healthcare providers who provide services to residents to gauge satisfaction with the program and to obtain suggestions for ways to improve the program.

### B. TERM OF CONTRACT:

This Contract shall be effective on **July 1, 2025** ("Effective Date"), and extend for a period of **sixty (60) months** after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

### C. PAYMENT TERMS AND CONDITIONS:

There shall be no cost to the State for the performance of services under this Contract.

### D. MANDATORY TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Braden Odom, Director of Special Projects  
Tennessee Department of Disability and Aging

**ATTACHMENT A – NO-COST CONTRACT**

315 Deaderick St., Nashville, TN 37243  
braden.odom@tn.gov  
Telephone # 615-295-6825

The Contractor:

**Contractor Contact Name & Title**  
**Contractor Name**  
**Address**  
**Email Address**  
**Telephone # Number**  
**FAX # Number**

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.5. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract (“Breach Condition”), the State shall have the right to immediately terminate the Contract. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.6. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part of the use of subcontractors in fulfilling the Contractor’s obligations under this Contract.
- D.7. Conflicts of Interest. The Contractor warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.8. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show

## ATTACHMENT A – NO-COST CONTRACT

proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.9. Prohibition of Illegal Immigrants. The requirements of Tennessee Code Ann. §12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation by submitting to the State a completed Attestation (accessible through the Edison Supplier Portal) and included at Attachment A, hereto, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tennessee Code Ann. § 12-3-309 for acts or omissions occurring after its effective date. This law requires the Chief Procurement Officer to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.10. Records. The Contractor shall maintain documentation of services rendered under this Contract. The books, records and documents of the Contractor, insofar as they relate to work performed under this Contract, shall be maintained for a period of five (5) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

**ATTACHMENT A – NO-COST CONTRACT**

- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.14. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the Parties that such Parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.15. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.16. State Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise.
- D.17. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.18. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.19. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tennessee Code Ann. §§ 9-8-101-408.
- D.20. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings,

## ATTACHMENT A – NO-COST CONTRACT

representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

- D.21. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.22. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.23. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance of this Contract, these items shall govern in the order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
  - f. the Contractor's response seeking this Contract.
- D.24. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

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Contractor shall provide the State a certificate of insurance (“COI”) evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer’s National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor’s policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor’s letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

**The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability (“CGL”) Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers’ Compensation and Employer Liability Insurance



## ATTACHMENT A – NO-COST CONTRACT

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
  
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
  - i. The Contractor employs fewer than five (5) employees;
  - ii. The Contractor is a sole proprietor;
  - iii. The Contractor is in the construction business or trades with no employees;
  - iv. The Contractor is in the coal mining industry with no employees;
  - v. The Contractor is a state or local government; or
  - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.
  
- c. Automobile Liability Insurance
  - 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
  - 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.
  
- d. Professional Liability Insurance
  - 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
    - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
    - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
    - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective

## ATTACHMENT A – NO-COST CONTRACT

Date, the Contractor must purchase “extended reporting” or “tail coverage” for a minimum of five (5) full years from the date of the final Contract payment.

- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

D.25. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys’ fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

D.26. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Health Information Technology for Economic and Clinical Health (“HITECH”) Act and any other relevant laws and regulations regarding privacy (collectively the “Privacy Rules”). The obligations set forth in this section shall survive the termination of the Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT “protected health information” as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another such document.
- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

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- D.27. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. § 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.28. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.29. Prohibited Contract Terms. The prohibited contract terms and conditions enumerated in Tenn. Code Ann. § 12-3-515, shall be a material provision of this Contract. The Contractor acknowledges, understands, and agrees that the inclusion of a term or condition prohibited by Tenn. Code Ann. § 12-3-515, shall be null and void and the Contract shall be enforceable as if the Contract did not contain such term or condition.

### **E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the

## ATTACHMENT A – NO-COST CONTRACT

Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.3. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.
- E.4. Drug-Free Workplace. The Contractor shall provide a drug-free workplace pursuant to the Drug-Free Workplace Act of 1988, Title 41 U.S.C. §§ 701, *et seq.*, and the regulations in Title 41 U.S.C.A. §§ 8101 through 8106.
- E.5.. Code of Conduct. The Contractor shall ensure that there is a code of conduct applicable to all Contractor employees that covers, at minimum, business practices, clinical practices, and workplace interaction. Contractor employees shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards pertaining to Contractor's profession. Contractor shall develop procedures for reporting violations of the ethical standards, which shall be communicated to Contractor's employees, including new hires, on at least an annual basis. Contractor's code of conduct shall prohibit Contractor, its officers, directors, and employees from retaliating against any Contractor employee who reports any violations or acts or omissions that appear to be violations. Contractor's non-retaliation policy shall prescribe discipline for violating the Contractor's code of conduct. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct shall entitle the State to exercise any right it has at law or in equity, including, but not limited to termination of this Contract.
- E.6. Additional Subcontracting Requirements. Contractor shall ensure in all subcontracts between it and Contractor's State approved subcontractors that each subcontract shall contain the sections of "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings) as these may be modified from time to time. Notwithstanding any use of State approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed by its subcontractors or other providers of goods or services.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

# ATTACHMENT A – NO-COST CONTRACT

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PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF DISABILITY AND AGING

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BRAD TURNER, COMMISSIONER

DATE

**ATTESTATION RE PERSONNEL USED IN CONTRACT  
PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

**The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.**

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**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**