

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

PEOPLE FIRST OF TENNESSEE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:95-1227
)	(cons. w/ 3:96-1056)
)	JUDGE SHARP
CLOVER BOTTOM DEVELOPMENTAL CENTER, et al.,)	
)	
Defendants.)	

AGREED ORDER

Pursuant to the Court’s Order dated May 7, 2014 (Dkt. No. 1101, the plaintiffs People First of Tennessee (“People First”) and the United States of America (the “United States”), the intervenors Parent Guardian Association of Clover Bottom Developmental Center and Parent Guardian Association of Greene Valley Developmental Center (collectively the “PGA”), and the defendants State of Tennessee, et al., (collectively the “State”) (People First, the United States, the PGA and the State shall collectively be referred to herein as the “Parties”), engaged in extensive discussions in a mediation conducted over several months with Magistrate Judge Juliet Griffin, and as a result have agreed upon objective and measurable exit criteria for the dismissal of this action. These criteria are set forth in the Exit Plan attached as Exhibit A to this Order, but not incorporated as an Order of the Court. Based on the resolution of the mediation and the presentation of these Parties, IT IS, ORDERED, ADJUDGED AND DECREED that:

Exit Plan

1. The State has agreed to undertake the obligations set forth in the attached, unincorporated Exit Plan in exchange for the dismissal of the case and the vacatur of all outstanding injunctive relief as provided in Paragraphs 2, 3, 8, 9, 13, 15, 17, 18, 22, and 24 below. The objective of the Exit Plan is to resolve the above-captioned action (the “CBDC Litigation”) by completing all material provisions of the Exit Plan in two phases: first, Sections II-IX by December 31, 2015; and, second, the completion of Section X by June 30, 2016. The existing orders, except as amended by this Agreed Order and/or subsequent Orders, shall remain in effect until final dismissal with prejudice.

2. Upon the State completing all material provisions of Sections II-IX of the Exit Plan by December 31, 2015, or earlier or later, the Court shall enter an order vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center (the injunctive relief that remains in effect subsequent to the order entered upon completion of Sections II-IX of the Exit Plan shall be referred to as the “GVDC Injunctive Relief”), and dismissing the CBDC Litigation with prejudice and in all respects except as to any then existing orders relating to the provision of services to class members while residing in GVDC.

3. Upon the State completing all material provisions of Section X of the Exit Plan by June 30, 2016, or earlier or later, the Court shall vacate the GVDC Injunctive Relief and finally and fully dismiss the CBDC Litigation with prejudice in all respects.

Compliance Conferences

4. During the performance of the Exit Plan, the Parties shall have reasonable access to requested information and documents regarding compliance with the Exit Plan without the

necessity of formal discovery.

5. Beginning in March 2015, the Parties will meet monthly and in person, unless the Parties agree to meet telephonically or to forego a monthly meeting, with Magistrate Judge Griffin or a successor Magistrate Judge (the “Magistrate Judge”) to conduct Compliance Conferences. The Parties will seek to resolve any issues of compliance with the Exit Plan, if any, during these conferences. This Order shall serve as a standing Order of Reference permitting the Magistrate Judge to address issues of compliance with the Exit Plan as provided herein.

6. During implementation of the Exit Plan, except by operation of Paragraph 16 (a) or 26(a) below and any motions for attorneys’ fees, no Party shall seek a finding of contempt or file a motion seeking any other relief from the Court, *except that*, any Party may seek relief if the Party believes in good faith that there exists an imminent risk of serious harm to a class member that is not being addressed appropriately.

7. During implementation of the Exit Plan, at the request of a Party or on the Court’s own motion, the Magistrate Judge may issue Reports and Recommendations to the District Court pursuant to Federal Rule of Civil Procedure (“Rule”) 72 finding that the State has completed any or all material provisions of Sections II through X of the Exit Plan. Pursuant to Rule 72, if any Party objects to the Report and Recommendation, that Party must file an objection to the Report and Recommendation within 14 days of issuance of the Report and Recommendation. If no such objection is filed, the findings in the Report and Recommendation shall be final and binding on all Parties, and no Party may raise any further issues with respect to the material provision(s) with which the Report and Recommendation found the State to be in material compliance. Pursuant to Rule 72, the District Court shall review *de novo* any filed objection. The Party

which filed the objection shall have the burden of proof on all factual issues implicated by the objection, and the Federal Rules of Evidence shall govern any hearing conducted on the objection.

Compliance with Sections II-IX of the Exit Plan

8. If (i) the Parties agree that the State has completed all material provisions of Sections II-IX of the Exit Plan, or (ii) the Magistrate Judge has issued Report(s) and Recommendation(s) finding that the State has complied with all material provisions of Sections II-IX of the Exit Plan, and no Party has timely objected, the Parties shall submit to the Court a proposed Order, which the Court shall enter (1) vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center; and, (2) dismissing the CBDC Litigation with prejudice and in all respects except as to any existing orders relating to the provision of services to class members while residing in GVDC.

9. If the Magistrate Judge has issued Report(s) and Recommendation(s) finding that the State has complied with all material provisions of Sections II-IX of the Exit Plan, and any timely objection has been overruled by the District Court, the State shall submit to the Court a proposed Order, which the Court shall enter (1) vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center; and, (2) dismissing the CBDC Litigation with prejudice and in all respects except as to any existing orders relating to the provision of services to class members while residing in GVDC.

10. If the State determines that it has not completed or will not complete one or more material provisions of Sections II-IX of the Exit Plan by December 31, 2015, the State shall be entitled to extension(s) of the term of the Exit Plan of no more than six months for any single extension, not to exceed one year without the consent of the Parties, to permit the State to

complete the remaining material provisions of Sections II-IX of the Exit Plan.

11. If the Parties agree that the State has not completed all material provisions of Sections II-IX of the Exit Plan by December 31, 2015, the Parties may, but are not required to, agree to a proposed Order of conditional dismissal pursuant to Rule 41(a)(2).

12. If the Parties disagree on whether the State has completed all remaining material provisions of Sections II through IX of the Exit Plan by the end of the term for Sections II-IX of the Exit Plan, and that disagreement cannot be resolved by mediation with the Magistrate Judge, the State shall present to the Magistrate Judge its basis for its position that the State has completed all remaining material provisions Sections II through IX of the Exit Plan. The Magistrate Judge may consider this information along with the record of information discussed throughout monthly Compliance Conferences. The Magistrate Judge will then issue a Report and Recommendation, subject to Rule 72, with findings as to whether the State has completed the remaining material provisions of Sections II through IX of the Exit Plan.

13. Except as provided in Paragraph 14, if any Party objects to the Report and Recommendation issued pursuant to Paragraph 12, that Party must file an objection to the Report and Recommendation within 14 days of issuance of the Report and Recommendation. If no such objection is filed, the findings in the Report and Recommendation shall be final and binding on all Parties, no Party may raise any further issues with respect to the material provision(s) with which the Report and Recommendation found the State to be in material compliance, and the Parties shall submit to the Court a consent motion and a proposed Order, which the Court shall enter (1) vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center; and, (2) dismissing the CBDC Litigation with prejudice and in all respects except as to any existing orders relating to the provision of services

to class members while residing in GVDC. Pursuant to Rule 72, the District Court shall review any filed objection *de novo*. The Party which filed the objection shall have the burden of proof on all factual issues implicated by the objection, and the Federal Rules of Evidence shall govern any hearing conducted on the objection.

14. If the Magistrate Judge issues a Report and Recommendation pursuant to Paragraph 12 finding that the State has not completed one or more material provisions of Sections II through IX of the Exit Plan, the State shall be entitled, at its option and in lieu of an objection to the Report and Recommendation, to extension(s) of the term of these sections of the Exit Plan of no more than six months for any single extension, not to exceed one year without the consent of the Parties, to permit the State to complete the material provision(s) of Sections II through IX of the Exit Plan that the Magistrate Judge has found not to be completed. If the State elects to extend the term of these sections of the Exit Plan pursuant to this Paragraph, the procedures set forth in Paragraphs 8-12 shall govern after the State informs the Parties that it believes that it has completed the material provision(s) of Sections II through IX of the Exit Plan that the Magistrate Judge had previously found not to be completed.

15. If a Party has objected to a Report and Recommendation issued pursuant to Paragraph 12, and this Court, after its review, finds that the State has completed the material provision(s) of Sections II through IX of the Exit Plan identified in the objection, then this Court shall enter an Order (1) vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center; and, (2) dismissing the CBDC Litigation with prejudice and in all respects except as to any existing orders relating to the provision of services to class members while residing in GVDC.

16. If a Party has objected to a Report and Recommendation issued pursuant to

Paragraph 12, and this Court, after its review, finds that the State has not completed one or more material provisions of Sections II through IX of the Exit Plan, then the Court may:

- a. make findings regarding the State's compliance or non-compliance with the material provisions of Sections II through IX of the Exit Plan identified in the objection and enter an Order granting an extensions of the term of the Exit Plan of no more than six months for any single extension, and directing the State to complete the material provision(s) of Sections II through IX of the Exit Plan the Court has found that the State has not completed; and/or
- b. enter an Order of conditional dismissal pursuant to Rule 41(a)(2).

Compliance with Sections X of the Exit Plan

17. If (i) the Parties agree that the State has completed all material provisions of Section X of the Exit Plan, or (ii) the Magistrate Judge has issued Report(s) and Recommendation(s) finding that the State has complied with all material provisions of Section X of the Exit Plan, and no Party has timely objected, the Parties shall submit to the Court a proposed Order vacating all remaining Injunctive Relief and dismissing the case with prejudice, which the Court shall enter.

18. If the Magistrate Judge has issued Report(s) and Recommendation(s) finding that the State has complied with all material provisions of Section X of the Exit Plan, and any timely objection has been overruled by the District Court, the State shall submit to the Court a proposed Order vacating all remaining outstanding injunctive relief and dismissing the case with prejudice, which the Court shall enter.

19. If the State determines that it has not completed or will not complete one or more material provisions of Section X of the Exit Plan by June 30, 2016, the State shall be entitled to extension(s) of the term of the Exit Plan of no more than six months for any single extension, not

to exceed one year without the consent of the Parties, to permit the State to complete the remaining material provisions of the Exit Plan.

20. If the Parties agree that the State has not completed all material provisions of Section X of the Exit Plan by June 30, 2016, the Parties may, but are not required to, agree to a proposed Order of conditional dismissal pursuant to Rule 41(a)(2).

21. If the Parties disagree on whether the State has completed all remaining material provisions of Section X of the Exit Plan by the end of the term for Section X of the Exit Plan, and that disagreement cannot be resolved by mediation with the Magistrate Judge, the State shall present to the Magistrate Judge its basis for its position that the State has completed all remaining material provisions of Section X of the Exit Plan. The Magistrate Judge may consider this information along with the record of information discussed throughout monthly Compliance Conferences. The Magistrate Judge will then issue a Report and Recommendation, subject to Rule 72, with findings as to whether the State has completed the remaining material provisions of Section X of the Exit Plan.

22. Except as provided in Paragraph 23, if any Party objects to the Report and Recommendation issued pursuant to Paragraph 21, that Party must file an objection to the Report and Recommendation within 14 days of issuance of the Report and Recommendation. If no such objection is filed, the findings in the Report and Recommendation shall be final and binding on all Parties, no Party may raise any further issues with respect to the material provision(s) of Section X with which the Report and Recommendation found the State to be in material compliance, and the Parties shall submit to the Court a consent motion and a proposed Order vacating all remaining outstanding injunctive relief and dismissing the case with prejudice, which the Court shall enter. Pursuant to Rule 72, the District Court shall review any filed

objection *de novo*. The Party which filed the objection shall have the burden of proof on all factual issues implicated by the objection, and the Federal Rules of Evidence shall govern any hearing conducted on the objection.

23. If the Magistrate Judge issues a Report and Recommendation pursuant to Paragraph 21 finding that the State has not completed one or more material provisions of Section X of the Exit Plan, the State shall be entitled, at its option and in lieu of an objection to the Report and Recommendation, to extension(s) of the term of Section X of the Exit Plan of no more than six months for any single extension, not to exceed one year without the consent of the Parties, to permit the State to complete the material provision(s) of Section X of the Exit Plan that the Magistrate Judge has found not to be completed. If the State elects to extend the Exit Plan pursuant to this Paragraph, the procedures set forth in Paragraphs 17-21 shall govern after the State informs the Parties that it believes that it has completed the material provision(s) of Section X of the Exit Plan that the Magistrate Judge had previously found not to be completed.

24. If a Party has objected to a Report and Recommendation issued pursuant to Paragraph 21, and this Court, after its review, finds that the State has completed the material provision(s) Section X of the Exit Plan identified in the objection, then this Court shall vacate all remaining outstanding injunctive relief and dismiss the case with prejudice.

25. If a Party has objected to a Report and Recommendation issued pursuant to Paragraph 21, and this Court, after its review, finds that the State has not completed one or more material provisions of Section X of the Exit Plan, then the Court may:

a. make findings regarding the State's compliance or non-compliance with the material provisions of Section X of the Exit Plan identified in the objection and enter an Order granting an extensions of the term of the Exit Plan of no more than six months for any single

extension, and directing the State to complete the material provision(s) of Section X of the Exit Plan the Court has found that the State has not completed; and/or

b. enter an Order of conditional dismissal pursuant to Rule 41(a)(2).

26. If the State informs the Court and the Parties that it cannot perform its obligations under the Exit Plan, the Court may vacate this Order.

Monitoring

27. In lieu of the duties and responsibilities for monitoring set forth in the Settlement Agreement, which was conditionally approved by this Court's Order dated July 3, 1997 and accompanying Memorandum and modified by Agreed Order dated September 13, 1999 (hereinafter the "Settlement Agreement"), and any subsequent orders of the Court, all of which are hereby vacated, hereinafter the QRP's duties and responsibilities for monitoring are only those specifically set forth below, in subparagraphs (a)-(i) of this paragraph. Moreover, the composition of the QRP immediately shall hereinafter consist solely of Jaylon Fincannon, who is the Chair of the QRP (the "QRP Chair"), and Nicole Arsenault.

a. By June 30, 2015, the QRP shall conduct annual on-site reviews of the following community providers: Scott Appalachian Industries (East) ("SAI") and Tennessee Family Solutions (Middle - Waiver) ("TFS") (collectively the "Providers"). The QRP may contract with a nurse for up to but no more than four (4) days to assist with the review of TFS. The QRP may contract with a person with expertise in physical and nutritional management services for up to but no more than three (3) days to assist with the review of SAI. The QRP shall issue a report for each of the Providers by no later than June 30, 2015, based on a 2015 on-site review, but this report shall not score the Providers in the domains of either Individual Support Planning or Achieving ISP Outcomes. The QRP shall conduct no reviews of community providers that are

not listed herein in 2015, and shall conduct no other community provider reviews after June 30, 2015.

b. For the class members residing at CBDC on the date of the entry of this Order, the QRP Chair shall review the ISTP submitted to it by the State of Tennessee as part of the transition process. Subsequent to the date on which the ISTP is delivered by the State to the QRP Chair (the “Submission Date”), the QRP Chair shall review the ISTP and any supporting documents submitted therewith, and consider any discussions with the regional transition office, in order to determine whether there are any major deficiencies with the placement. Within twenty (20) calendar days of the Submission Date (the “Identification of Major Deficiencies Date”), the QRP Chair shall communicate to the State any major deficiencies with the placement. At its sole discretion, the QRP Chair may extend the Identification of Major Deficiencies Date by one, seven (7) calendar day period, or with the written agreement of the State the date may be extended for a period greater than seven (7) days. For purposes of this provision and subparagraph (c) that follows, the phrase “major deficiency” shall mean only those deficiencies specifically relevant to the safe and orderly transition of the person to the community that are not already addressed within the ISTP (for which implementation is pending), and which are reasonably anticipated to impede the person’s ability to safely transition to the community or which present an imminent and serious risk to the ongoing health and safety of the persons supported in the community. The proposed transition shall not occur until the State corrects any major deficiency identified by the QRP Chair, which requirement shall be satisfied upon the submission of a certification by the State to the QRP Chair that each major deficiency has been corrected, along with an explanation of how each has been corrected.

c. For the class members who transition out of GVDC to other placements following

the entry of this Order (the “GVDC Residents”), the QRP Chair shall review the ISTP submitted to it by the State of Tennessee as part of the transition process of these individuals. The QRP Chair shall review the ISTP and any supporting documents submitted therewith for the GVDC Residents, and consider any discussions with the regional transition office, in order to determine whether there are any major deficiencies with the placement. The QRP Chair may retain a nurse for up to but no more than eight (8) hours to assist in the review of the ISTP when the QRP Chair determines, within the exercise of sound and reasonable professional judgment, that he needs assistance to review particular medical issues for a transitioning class member. The QRP Chair may retain a specialist in the provision of behavioral services for up to but no more than eight (8) hours to assist in the review of the ISTP when the QRP Chair determines, within the exercise of sound and reasonable professional judgment, that he needs assistance to review particular behavioral issues for a transitioning class member. In instances where the QRP Chair determines he needs to retain either type of consultant, he will provide notice of that determination to the State in advance of retaining the consultant and in the event the State objects to the use of the consultant and a resolution is not reached with the QRP Chair, the State may lodge an objection with the Magistrate whose ruling in this regard shall be final. Within twenty (20) calendar days of the Submission Date, the QRP Chair shall communicate to the State any major deficiencies with the placement. At its sole discretion, the QRP Chair may extend the Identification of Major Deficiencies Date by one, seven (7) calendar day period, or with the written agreement of the State the date may be extended for a period greater than seven (7) days. The proposed transition of the GVDC Residents shall not occur until the State corrects any major deficiency identified by the QRP Chair, which requirement shall be satisfied upon the submission of a certification by the State to the QRP Chair that each major deficiency has been

corrected, along with an explanation of how each has been corrected.

d. While class members reside at GVDC, the QRP shall conduct annual reviews of GVDC relative only to the provision of appropriate medical and clinical services and only as those services that are particularly described in Exhibit B to this Order. The QRP review of GVDC shall be limited to only those activities described in Exhibit B. When there are no class members residing at GVDC, the QRP shall cease all activities relative to GVDC.

e. In the event that there are any class members residing at CBDC on or after October 13, 2015, the QRP shall conduct an annual review of CBDC relative to Sections IV, V, VI, VII and IX of the Settlement Agreement. In conducting this review, the QRP shall use no more than three consultants in addition to the two members of the QRP, and be on site at CBDC for no more than 3.5 days (28 hours). The QRP shall only conduct a review of CBDC if there are class members residing at CBDC as of October 13, 2015.

f. In regard to any communication any member of, or person working or consulting for, the QRP receives from a class member, class member's family, provider, advocate, or any other person regarding the litigation or services provided by DIDD, aside from communications relative to the community status reviews described in subparagraph (a), GVDC status reviews described in subparagraph (d), and or the transition of class members from CBDC and/or GVDC as described in subparagraphs (b) and (c), the QRP's sole responsibility shall be to direct the person to call DIDD (the State shall provide the specific position and number of the person to be contacted), and to report the call to Parties' counsel in those instances he/she believes it is appropriate to do so;

g. The QRP Chair shall be available to speak to counsel for the parties and/or the Court;

h. The QRP Chair shall perform transition activities associated with the winding down of active monitoring;

i. The members of the QRP shall be available, as directed by the Court, to attend District Court hearings (including mediation sessions or hearings conducted by the Magistrate Judge);

j. Aside from the activities specifically listed above in subparts (a)-(i), the QRP is to undertake reviews, issue other reports, and/or engage in other activities only in the event it is directed to do so by a specific Order of this Court entered subsequent to the entry of the instant Order;

28. The QRP's budget for providing the services set forth and described in paragraph 27 shall in no event exceed the following:

- a) for all services rendered from February 1, 2015 through June 30, 2015, including the use of any consultants except those described below in subparagraph 28(c), the budget shall not exceed \$219,755.72, plus any reasonable and necessary travel expenses incurred in connection with court hearings, the community provider reviews and/or the review of GVDC;
- b) for all services rendered from July 1, 2015 through June 30, 2016, including the use of any consultants except those described below in subparagraph 28(c), the budget shall not exceed \$298,990.00, plus any reasonable and necessary travel expenses incurred in connection with court hearings, the review of CBDC, if it proves necessary, and/or GVDC. If the CBDC review is made unnecessary pursuant to subparagraph 27(e), the budget for this period shall not exceed \$241,990.49;
- c) consistent with subparagraph 27(c), the QRP Chair may retain a nurse or a specialist in the provision of behavioral services for up to eight (8) hours to assist in the review of an ISTP when the QRP Chair determines, within the exercise of his sound reasonable professional judgment and with notice to the State, that he needs assistance to review particular medical or behavioral issues for a transitioning resident of GVDC. The QRP shall be reimbursed for the reasonable and necessary use of such consultative services, up to and not in excess of eight (8) hours for any single transition and at a rate not to exceed \$175/hour.
- d) The QRP shall not submit to the State, and the State shall not be required to pay,

any invoice to the extent it seeks payment for work performed or expenses incurred through June 30, 2016, in excess of the budget described in subparagraphs 28(a)-28(c), and the QRP shall not be entitled to retain any funds in excess of its actual expenses for the periods described or any other period. In the event that all class members have not transitioned from GVDC by June 30, 2016, the State and the QRP Chair will meet to develop a budget for the period beginning on July 1, 2016, for the following activities to the degree they remain applicable: review of ISTPs pursuant to subparagraph 27(b); the annual review of GVDC pursuant to subparagraph 27(c); to attend hearings pursuant to subparagraph 27(i); and/or, to undertake any additional activities so directed by the Court, if any, pursuant to subparagraph 27(j). The QRP will maintain accurate and detailed records regarding all expenditures it makes during the periods described above, and in the event that the QRP believes at any point that its expenditures will exceed the budget set forth above, it will immediately notify the parties, and provide a detailed request with supporting documentation for additional funds (“Additional Funds”) for the applicable period. The QRP shall provide to the State or the Court, in a reasonable time period upon request, records supporting the expenditure or use of funds during the applicable periods. The State shall have no obligation to pay Additional Funds except upon its written agreement to do so, or upon Court Order.


Other Issues

29. Section V.B.10 of the Settlement Agreement is hereby vacated, and therefore Defendants are no longer required to hold a bed in a developmental center for any class member transitioning from GVDC or any other developmental center.

30. Notice of the hearing to approve this Order (the “Notice”) was published on _____ in the Tennessean, the Chattanooga Times Free Press, the Knoxville News Sentinel, and the Memphis Daily News, and on or before that date on the DIDD website. The form of the Notice was approved by Magistrate Judge Griffin.

IT IS SO ORDERED THIS ~~W~~' \$ < 2) - \$ 1 8 \$ 5 <

IT IS SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT COURT

EXIT PLAN

Pursuant to the Court's Order dated May 7, 2014 (Dkt. No. 1101) the plaintiffs People First of Tennessee ("People First") and the United States of America (the "United States"), the intervenors Parent Guardian Association of Clover Bottom Developmental Center and Parent Guardian Association of Greene Valley Developmental Center (collectively the "PGA"), and the defendants State of Tennessee, et al., (collectively the "State") (People First, the United States, the PGA, and the State shall collectively be referred to herein as the "Parties"), have engaged in extensive negotiations relative to the litigation currently pending in the United States District Court for the Middle District of Tennessee under the caption *People First of Tennessee, et al. v. Clover Bottom Developmental Center, et al.*, No. 95-1227 (consolidated w/3:96-1056) (hereinafter the "CBDC Lawsuit"). The Parties have reached agreement to lead to the vacatur of all outstanding injunctive relief and the dismissal of the CBDC Lawsuit upon the completion of the objective and measurable exit criteria set forth herein. In particular the Parties have negotiated the obligations set forth in Sections II through IX of the Exit Plan. In addition, as part of the Exit Plan, People First has requested and the State has agreed, as set forth in Section X, to close Greene Valley Developmental Center ("GVDC"). The United States and the PGA have not required this action.

Section I – General Terms

A. **Agreed Order.** Upon the execution of this Exit Plan, the parties will promptly file a joint motion asking the Court to enter an agreed Order (a copy of which is attached as Exhibit A) (the "Agreed Order") which will provide that:

1. Upon completion of the objective and measurable criteria set forth in Sections II through IX of the Exit Plan, all outstanding injunctive relief in the CBDC Lawsuit

shall be vacated and the CBDC Lawsuit shall be partially dismissed with prejudice in accordance with the terms of the Agreed Order (the only remaining provisions of the CBDC Litigation shall be those relating to GVDC and its residents; GVDC will remain subject only to Sections IV, V, and IX of the Settlement Agreement and those set forth in Section X below); and,

2. Upon the completion of the objective and measureable criteria set forth in Section X of the Exit Plan, all remaining outstanding injunctive relief shall be vacated and CBDC Lawsuit shall finally and forever be dismissed with prejudice.

All of the obligations that the State has agreed to undertake in Sections II through X of this Exit Plan are contingent upon the entry of the Agreed Order. If the Court does not enter the Agreed Order attached as Exhibit A, without modification, on or before January 31, 2015, the State shall have no obligations whatever under this Exit Plan.

B. Time Period for Implementing Sections II through IX. Except as otherwise specifically provided in Sections II through IX of this Exit Plan, the State agrees to fulfill the obligations set forth in Sections II through IX of this Exit Plan by no later than December 31, 2015, *provided however*, that any failure to complete an obligation required to be completed by a date prior to December 31, 2015 shall not be deemed to constitute a failure to satisfy a material provision of this Exit Plan so long as the obligation is satisfied on or before December 31, 2016. The time period for completing the obligations set forth in Sections II through IX of this Exit Plan may be extended pursuant to Paragraph 10, or any other pertinent provision, of the Agreed Order referenced in Section I.A.

C. Time Period for Implementing Section X. Except as otherwise specifically provided in Section X, the State agrees to fulfill the obligations set forth in Section X of this Exit Plan by no later than June 30, 2016, *provided however*, that any failure to complete an obligation required to be completed by a date prior to June 30, 2016 shall not be deemed to constitute a failure to satisfy a material provision of this Exit Plan so long as the obligation is satisfied on or

before June 30, 2017. The time period for completing the obligations set forth in Sections X of this Exit Plan may be extended pursuant to Paragraph 19, or any other pertinent provision of the Agreed Order referenced in Section I.A. A delay in closing GVDC shall not serve as a basis for not entering an Order consistent with that described in Section I.A.2 above as long as GVDC ultimately is closed.

D. Authority and Execution in Counterparts. The signatory for each undersigned party below represents that he or she has been authorized to execute this Exit Plan on behalf of the party. In the alternative, where signed by counsel for a party, undersigned counsel warrant and represent that they have the authority from their respective clients, to agree to the terms of this Exit Plan. This Exit Plan may be executed in multiple counterparts, each one of which shall be deemed an original, but all of which shall be considered together as one and the same document.

E. Attorneys' Fees.

1. The State agrees that People First of Tennessee is a prevailing party for purposes of any attorneys' fee petition filed pursuant to 42 U.S.C. § 1988 seeking fees and expenses for work done after October 15, 2013 in connection with settlement discussions leading to, the mediation before Magistrate Judge Griffin leading to, and the negotiation and implementation of, this Exit Plan.

2. The State agrees that the Parent Guardian Association of Clover Bottom Developmental Center and Parent Guardian Association of Green Valley Developmental Center are prevailing parties for purposes of any attorneys' fee petition filed pursuant to 42 U.S.C. § 1988 seeking fees and expenses for work done after January 3, 2014 in connection with

settlement discussions leading to, the mediation before Magistrate Judge Griffin leading to, and the negotiation and implementation of, this Exit Plan.

Section II—Additional Class Members

The Parties have agreed there are three (3) persons who resided at Harold Jordan Center (“HJC”) and whom heretofore had not been classified by the State as members of the *CBDC* class. As part of this Agreement, the State agrees these three persons are now and shall hereinafter be classified as members of the *CBDC* class. These three persons are identified in the attached Exhibit B (the “List”). The non-State Parties agree that aside from the three (3) persons identified on the List, there are no additional persons who resided or stayed at HJC for any period of time and whom the State has not previously classified as members of the *CBDC* class whom should now or in the future be added as members to the *CBDC* class, and that membership in the *CBDC* class is here and forever closed.

Section III--Individual Support Plans

A. The Commissioner of DIDD shall notify all existing Independent Support Coordination agencies (“ISC Agencies”) and Case Managers, by and through the issuance of a Memorandum, of the following: (1) that the Individual Support Plan (“ISP”) template has been revised as reflected in paragraph B below; and, (2) that all Independent Support Coordinators (“ISCs”) and Case Managers shall be required to complete revised ISP training consistent with paragraph D below by a date to be specified by DIDD (the “Specified Date”), and that any ISC that has not completed that training by the Specified Date shall no longer eligible for reimbursement by the State for the provision of ISC services until such time that the training has been completed.

B. DIDD has revised the ISP template, Section A, Personal Focus, to include a section entitled “The Person’s Vision of a Preferred Life.” DIDD has also revised the ISP template, Section B, Action Plan, to include columns for each action step that address:

1. strategies for implementation (for staff instruction);
2. how to measure progress; and,
3. how to know that each outcome has been accomplished.

DIDD has made the revisions contemplated and described in this paragraph in the form attached hereto as Exhibit C, and this form has been approved by the non-State Parties.

C. The Commissioner of DIDD shall notify all existing ISC Agencies and State Case Managers, by and through the issuance of a Memorandum, that ISC and Case Manager Monthly Reviews are required to include a narrative review of each relevant action step.

D. DIDD shall revise the current Person Centered ISP training to include the following:

1. an enhanced component in regard to writing outcomes and actions that include skill acquisition;
2. an enhanced component in regard to developing measurable outcomes and action steps that are consistent with the person’s vision of a preferred life;
3. specific training on how to complete Sections A and B of the new ISP template referenced in paragraph no. 2 above; and,
4. completion of the monthly ISP reviews by the ISC or the Case Manager to include monitoring and narrative documentation of the progress made with respect to each action step and outcome.

The State shall provide a draft of the revised training (the “Revised Training”) to the non-State Parties. Upon receiving the draft of the Revised Training, each of the non-State Parties shall

have fourteen (14) calendar days to submit to the State, in writing, specific, proposed changes to the draft Revised Training, which the State shall consider in good faith and adopt as the State deems appropriate at its sole discretion. The State shall provide to the non-State Parties the finalized Revised Training within seven (7) calendar days of either: (a) the receipt of the non-State Parties' proposed changes, or (b) the date on which the non-State Parties' submittals were due.

E. DIDD will provide training to residential and day services providers on person-centered planning and person-centered supports, including ISP development, implementation, documentation, and monitoring; expectations of participants in the person-centered planning process; and, anticipated revisions to the quality assurance requirements consistent with the changes described in paragraph G below. This requirement shall be satisfied by DIDD conducting the aforementioned training at one quarterly provider meeting in each region during 2015 and posting a recording of the training and course material on the DIDD website.

F. DIDD Central Office Policy and Innovation Unit shall conduct train-the-trainer sessions for the Staff Development Units to introduce the revisions to the ISP training. The Staff Development Units shall commence training ISCs and Case Managers on the new ISP curriculum. ISCs who have not completed training on the new ISP curriculum on or before the Specified Date shall no longer be eligible for reimbursement by the State for the provision of ISC services until such time that the training has been completed.

G. DIDD shall modify its Quality Assurance tools and processes for review of class member ISPs to determine providers' compliance with any new requirements that are established regarding the content of ISPs surrounding the person's vision of a preferred life, skill acquisition, and measurable outcomes. DIDD shall also modify its Quality Assurance tools and processes to

assess ISCs’ and residential and day services providers’ compliance with implementation of the ISP, including documentation in the notes and monthly review of progress toward completion of each action step and outcome. The State shall provide a draft of the revised QA Tools (the “Revised QA Tools”) to the non-State Parties. Upon receiving the draft of the Revised QA Tools, each of the non-State Parties shall have fourteen (14) calendar days to submit to the State, in writing, specific, proposed changes to the draft Revised QA Tools, which the State shall consider in good faith and adopt as the State deems appropriate at its sole discretion. The State shall provide to the non-State Parties the finalized Revised QA Tools within seven (7) calendar days of either: (a) the receipt of the non-State Parties’ proposed changes, or (b) the date on which the non-State Parties’ submittals were due.

Section IV—Use of Psychotropics

A. TennCare and DIDD shall collaborate to develop training on the use of psychotropic medications for individuals with intellectual or developmental disabilities (“IDD”). The State shall make this training available to all licensed physicians and other licensed prescribers in Tennessee who participate in the TennCare program.

B. TennCare and DIDD shall collaborate to develop training and make it available to consumers, family members, and conservators regarding appropriate use of psychotropic medications, including how to complete the IDD Toolkit Behavioral/Emotional Concerns—Caregiver Checklist in order to better inform appropriate behavioral interventions (“Family Training”). The State shall provide a draft of the Family Training to the non-State Parties. Upon receiving the draft of the Family Training, each of the non-State Parties shall have fourteen (14) calendar days to submit to the State, in writing, specific, proposed changes to the draft Family

Training, which the State shall consider in good faith and adopt as the State deems appropriate at its sole discretion. The State shall provide to the non-State Parties the finalized Family Training within seven (7) calendar days of either: (a) the receipt of the non-State Parties' proposed changes, or (b) the date on which the non-State Parties' submittals were due.

C. TennCare shall use its Pharmacy Advisory Committee (the "Committee") to review and modify, as the Committee deems appropriate, prior authorization criteria for TennCare reimbursement of psychotropic medications (applicable only to members who are not eligible for Medicare). As a condition of such authorization in the absence of an appropriate psychiatric diagnosis, such prior authorization criteria will require, as the Committee deems appropriate, documentation appropriate to support the prescription of a psychotropic medication (e.g., a completed and signed IDD Toolkit Psychotropic Medication Checklist, and/or documentation of other less restrictive interventions that have been tried to address the concerns for which the medication is being prescribed).

D. Subject to review and approval of TennCare's Pharmacy Advisory Committee: (1) initial authorization of any new psychotropic medication for a person with I/DD who does not have a psychiatric diagnosis will be limited to a period of no more than ninety (90) days in order to evaluate the efficacy of the drug in addressing the concerns for which the medication is being prescribed and, (2) approval of subsequent authorizations will be conditioned upon documentation of such efficacy and, where possible and appropriate, the identification of a supporting diagnosis.

E. TennCare shall work with its Pharmacy Advisory Committee to establish, as the Committee deems appropriate, additional requirements for authorization of multiple

psychotropic medications for individuals with I/DD, including review of potential drug-to-drug interactions.

F. DIDD shall standardize, statewide, the referral process to a Psychopharmacology Review team in each of the three Grand Regions, for a review of psychotropic polypharmacy concerns. The referral process shall identify as appropriate for potential referral, at a minimum, persons supported for whom two or more psychotropic medications in the same class have been prescribed, or for whom four or more psychotropic medications have been prescribed. DIDD shall provide information regarding this referral process to DIDD providers and families of service recipients by the following means during the calendar year 2015:

1. include information relative to the existence and charge of these teams quarterly through DIDD's Open Line publication;
2. present information relative to the existence and charge of these teams at regional Provider Forums; and,
3. present information relative to the existence and charge of these teams at the ISC Leadership Group.

Upon implementation of the standardized referral process, DIDD will begin tracking data to review the efficacy of these Psychopharmacology Reviews, including, at a minimum, the number of referrals received, the source of referrals, the number of reviews completed, and the number of reviews resulting in a change in prescriber practices for the person supported (to the best of the Review team's knowledge).

Section V—Behavioral Respite Services

A. DIDD shall establish eight (8) behavioral respite beds for individuals with I/DD, 4 in East TN and 4 in Middle TN.

B. TennCare and DIDD shall develop and TennCare shall submit to CMS for review and approval an amendment to TennCare Contractor Risk Agreements with Managed Care Organizations to provide Behavioral Crisis Prevention, Intervention and Stabilization Services for individuals with I/DD. The service will assist and support the person or agency who is primarily responsible (whether paid or unpaid) for supporting an individual with I/DD who is experiencing a behavioral crisis that presents a threat to the individual's health and safety or the health and safety of others. Behavioral Crisis Prevention, Intervention, and Stabilization Services are provided to help prevent unnecessary institutional placement or psychiatric hospitalization. The State intends such services to include:

- Assessing the nature of a crisis to determine whether the situation can be stabilized in the current location or if a more intensive level of intervention is necessary, e.g., Behavioral Respite or when appropriate, inpatient mental health treatment;
- Arranging the more intensive level of intervention when necessary;
- Direction to those present at the crisis or direct intervention to de-escalate behavior or protect others in the immediate area;
- Identification of potential triggers and development or refinement of interventions to address behaviors or issues that precipitated the behavioral crisis; and/or,
- Training and technical assistance to those who support the individual on crisis interventions and strategies to mitigate issues that resulted in the crisis.

Section VI—Protection from Harm

A. DIDD shall prepare¹ informational material for local law enforcement entities (the “Informational Material”) to be made available statewide. The informational packet shall include at least the following:

1. an introduction to I/DD;
2. a description of the services provided by DIDD;
3. the responsibilities of the DIDD investigators in conducting administrative investigations of allegations of abuse, neglect and exploitation; and,
4. Tennessee criminal statutes that may have application when the victim is a vulnerable person.

B. DIDD shall identify local law enforcement entities in each of the three regions that may benefit from the Informational Material, and mail or otherwise provide the material to the local law enforcement entities. From the date of the entry of an Order approving the Exit Plan until and through December 1, 2015, DIDD shall conduct more in-depth informational sessions if requested by any local law enforcement entities.

C. The Informational Material will be posted on the DIDD website. The Informational Materials will also be provided to the Tennessee Law Enforcement Training Academy.

D. A description of the Informational Material, along with a link to the material on DIDD’s website, will be included in DIDD’s Open Line newsletter at least once a quarter during the calendar year 2015.

¹ This informational material will be developed by DIDD’s Protection from Harm unit, with the assistance of the DIDD Office of General Counsel, the State Director of Psychological and Behavioral Services, and the Program Operations unit. The State shall provide a draft of the Informational Material to the non-State Parties. Upon receiving the draft of the Revised Training, each of the non-State Parties shall have fourteen (14) calendar days to submit to the State, in writing, specific, proposed changes to the draft Revised Training, which the State shall consider in good faith and adopt as the State deems appropriate at its sole discretion. The State shall provide to the non-State Parties the finalized Revised Training within seven (7) calendar days of either: (a) the receipt of the non-State Parties’ proposed changes, or (b) the date on which the non-State Parties’ submittals were due.

E. DIDD shall enter into a contract with a qualified contractor to assemble an external mortality review committee to evaluate a sample of death reviews completed by the Regional Mortality Review Committee. Based upon this evaluation, the contract shall require the qualified contractor to identify system-wide issues that may be the subject of improvements that are achievable and measureable.

Section VII—Enrollment of Class Members in SelectCommunity

A. TennCare shall develop a letter and educational materials regarding the benefits of participation in SelectCommunity and the process for enrolling in SelectCommunity. The letter and accompanying educational materials will be mailed to all class members enrolled in one of the state's three Section 1915(c) waivers and their family member/conservator, as applicable.

B. Upon the development of the educational materials described in Section VII.A., these materials shall thereafter be presented to and discussed with any class member residing at Clover Bottom Developmental Center or Greene Valley Developmental Center, or the class member's family member or conservator, as applicable, in attendance at the 2015 annual ISP meeting as an option that would be available to the class member upon transition from the Developmental Center, should the person elect to receive waiver services upon transition.

C. Prior to mailing the letter and educational materials described in Section VII.A., TennCare and DIDD shall develop and present to ISCs and I/DD waiver providers during at least one quarterly ISC leadership meeting and at least one quarterly provider meeting in each region information regarding the benefits of participation in SelectCommunity and the process for enrolling in SelectCommunity, and will advise ISCs and waiver providers of the notices and educational materials that will be mailed. The State shall include in the training materials referenced in Section III.D. above, information about the availability and benefits of enrolling in SelectCommunity, populations eligible to enroll in SelectCommunity, the process for enrolling in SelectCommunity, the role and responsibilities of ISCs in working with nurse care managers, and coordination of physical and behavioral health services needs with Long Term Services and Supports.

Section VIII--Freedom of Choice Form and Freedom of Choice

The State has revised the Freedom of Choice Form to describe the rights afforded to persons choosing to receive care in an ICF/IID facility, including the right to choose any available, willing provider of ICF/IID services, the right to choose a different available, willing ICF/IID service provider; and, the right to appeal if the person's choice of available, willing ICF/IID providers is not honored. The revised Freedom of Choice Form, and accompanying Residential Services Option information sheet, both of which have been approved by the Parties, are attached hereto as Exhibit D.

Section IX--Entry into the CAC Waiver

The State has submitted an application to CMS to approve a waiver, CMS Control # 0357, known as the Comprehensive Aggregate Cap waiver (the “CAC Waiver”). Beginning on the date of the entry of the Agreed Order approving this Exit Plan or CMS approval of the CAC Waiver, whichever is later, and ending on the date the CAC Waiver is either terminated or renewed, the State agrees that *CBDC* class members (and upon dismissal of the *CBDC* Litigation, former *CBDC* class members) who are otherwise eligible to receive waiver services shall be permitted to choose to receive services through the CAC Waiver. While the State’s agreement in this regard shall continue, for purposes of this Exit Plan the State shall be deemed to have satisfied its obligations under this provision if the CAC Waiver remains open to all *CBDC* class members who are eligible to enroll in the CAC waiver from the date it is approved by CMS until the date the State has completed the obligations set forth in Sections II through IX of this Exit Plan.

Section X—Closure of GVDC

- A. Subsequent to the entry of the Agreed Order, the State shall announce:
 - 1. that GVDC shall be closed; and,
 - 2. that the closure of GVDC shall occur by no later than June 30, 2016.
- B. Subsequent to the entry of the Agreed Order, the State shall notify all class members residing at GVDC that the State is an unwilling provider of services at GVDC.
- C. Subsequent to the entry of the Agreed Order, the State shall no longer be required by Settlement Agreement Section V.B.10 to hold a bed in a developmental center for any class member transitioning from GVDC or any other developmental center.

D. The State will offer to class members transitioning out of GVDC freedom of choice of: (1) available, willing ICF/IID providers; or (2) enrollment in the CAC Waiver and available, willing HCBS waiver providers.

E. The State shall prepare Individual Support Transition Plans for all class members transitioning out of GVDC.

F. All class members shall be transitioned out of GVDC in accordance with each class member's Individual Support Transition Plan.

G. The State shall make the results of the 1-day, 5-day, and 30-day post-transition reviews by the state for each class member transitioning from GVDC available to the conservator upon their request.

AGREED TO:

On Behalf of the United States of America:

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United States Attorney
Middle District of Tennessee

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**On behalf of the Parent Guardian
Associations:**

**Parent Guardian Association of
Cloverbottom Developmental Center
(a/k/a Parent Guardian Association
for Retarded Citizens of Clover Bottom
Developmental Center)**

By: Lynne Burkett
Title: President

On Behalf of Defendants:

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Attorney General and Reporter

MARTHA CAMPBELL (9654)
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**Parent Guardian Association of
Greene Valley Developmental Center
(a/k/a Parent Guardian Association
of Greene Valley Developmental Center
and East Tennessee Community Homes)**

By: Tatum Fowler
Title: President

EXHIBIT C
To Exit Plan
(ISP Template)

(Select One)
(Edition Type)

INDIVIDUAL SUPPORT PLAN

NameField1 NameField2
(Person's Full Name)

ISP Effective Date: _____

Date ISP Amended: _____

FACE SHEET

Person's Information:

Home Address: _____
City, State, Zip: _____
Date of Birth: _____ Phone: _____
Social Security Number: _____
Waiver enrollment date: _____ Regional Office: W M E

For an amendment, check each section that will replace the previous edition of that section in the ISP.

- [] A. Personal Focus
- [] B. Action Plan
- [] C. Services and Supports
- [] D. Behavior Support Plan
- [] E. Planning Meeting Signature Sheet

Conservator or Other Legal Representative:

Name: _____
Relationship: _____
Street Address: _____
City, State, Zip: _____
Phone: _____

This Edition of ISP Prepared By:

Name: _____
Position: _____
Agency: _____
Phone: _____

Other Primary Contact:

Name: _____
Relationship: _____
Street Address: _____
City, State, Zip: _____
Phone: _____

Reason for Submission to DIDD: (Select one reason below.)

(Select One)

- [] YES [] NO Is the Primary Contact eligible to receive Protected Health Information in accordance with HIPPA requirements?
- [] YES [] NO Is there a signed release of information form?

DIDD Use Only:

Imprint Date of Receipt of the ISP or Amendment by the DIDD Regional Office in the Space Below:

Planning Meeting: Date: _____ Time: _____
Location: _____

(Select One)

(Edition Type)

INDIVIDUAL SUPPORT PLAN

ISP Effective Date:

[Empty box for ISP Effective Date]

NameField1 NameField2

(Person's Full Name)

Date ISP Amended:

[Empty box for Date ISP Amended]

[] Amended Section

A. PERSONAL FOCUS

Purpose: This section is written to ensure that the ISP is focused on the person. The information reflects what this person, his/her family and/or legal representative, and the persons they have chosen, have told the preparer of this ISP. Important information from the person's records also is included as desired by the person, family or his/her legal representative. The Personal Focus is completed prior to, and distributed to everyone invited to the planning meeting. This information provides the foundation around which supports, services, outcomes, goals, actions, etc. are planned and carried out for this person. If in this Personal Focus, the person or his/his legal representative and/or family indicate that anything needs to be different, changed, or ensured in the person's life, it will be addressed in the Action Plan of this ISP.

1. Description of the Person's Current Life:

**Describe the Person's Current Situation and
What is Important to the Person**

What's important to and for NameField1 and what do others need to know to support NameField1 in these areas of daily life?

a. Home:

What do people like and admire about NameField1? What are the good things that others say about NameField1?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

What is important to NameField1? What is important for NameField1?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

What supports does NameField1 need at home (what should supports look like for the person)?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

b. Day:

What is important to NameField1 during the day? What is important for NameField1 during the day?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

**Describe the Person's Current Situation and
What is Important to the Person**

What's important to and for NameField1 and what do others need to know to support NameField1 in these areas of daily life?

What supports does NameField1 need during the day (what should supports look like for the person)?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

c. Relationships/Natural Supports/Community Involvement:

What is important to NameField1? What important for NameField1?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

What supports does the person need in order to develop and maintain relationships?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

d. Medical Conditions: List chronic medical, psychiatric, and other health conditions.

What is important for NameField1 to be healthy and safe? What is important to the person in regards to their interest in helping to manage their healthcare?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

e. Allergies: List food, drug and other allergies.

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

f. Mealtime: List food likes and dislikes, special diets, dining issues, weight issues, etc.

What is important to NameField1? What is important for NameField1?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

What is important for NameField1 to be healthy and safe at mealtime?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

2. What is the Person's Vision of a Desired Life? What is the person's vision for their life? What does the person want to accomplish? What supports will the person need in order to achieve their goals?

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

3. Personal Funds Management: Specify the person's preferences regarding personal funds management.

(Click & Type Here)

4. Decision-Making: Specify the person's rights and responsibilities for making other decisions.

(Click & Type Here)

5. Communication: Specify how the person communicates with others and the best way to communicate with the person.

(Click & Type Here)

6. Other Important Things that Supporters Should Know:

- (Click here and begin typing. To add another bullet, press Enter at the end of each sentence.)

(Select One)

(Edition Type)

INDIVIDUAL SUPPORT PLAN

NameField1 NameField2

(Person's Full Name)

ISP Effective Date:

Date ISP Amended:

[] Amended Section

B. ACTION PLAN – VISION OF A DESIRED LIFE

Purpose: This Action Plan is developed based on information gathered from the person and the person's family or legal representative during a meeting with the person's support planning team and from assessments and other information sources.

The Action Plan consists of:

1. Identifying actions needed for the person to achieve their vision of a desired life;
2. Identifying actions for meeting the person's needs and preferences;
3. Identifying actions for supporting the person's activities of daily life;
4. Identifying actions to address any other risks in the person's life;
5. Planning actions for supporting the person during non-routine events; and,
6. Recording the action to be taken as the result of any other issues discussed during the planning meeting. The member of the team chosen and designated as the provider of the service or support used or needed by the person will be responsible for carrying out and documenting the implementation and/or completion of that particular action.

1. OUTCOMES:				
WHAT IS THE OUTCOME? <small>The focus for this section should be the person's vision of a desired life. What is their personal goal and where are they now in achieving that goal?</small>	STRATEGIES FOR IMPLEMENTATION: <small>What are the barriers to implementation? What's working and not working? What are the strategies to remove the barriers, and overcome what's getting in the way?</small>	WHAT ARE THE ACTION STEPS NEEDED TO IMPLEMENT THE PERSONS GOALS?	HOW WILL PROGRESS BE MEASURED?	WHO WILL DO? WHEN?
(Click here to begin typing. Press TAB to move to next column.)	(Use TAB key to move to next column)	(Use TAB key to move to next column)	(Use TAB key to move to next column)	

2. DIDD or Medicaid HCBS Waiver Services (Cont'd.):

A Service Name & *Type of Request	B Tier	C Service Code & Fund Source	D Provider Name & Provider Code	E Site Name & Site Code	F Start Date & End Date	G Unit Rate & Unit Type	H # of Units & Cost	(DIDD USE ONLY)		
								Approve	Deny	**Deny & Partial Approve
8								[]	[]	[]
9								[]	[]	[]
10								[]	[]	[]
11								[]	[]	[]
12								[]	[]	[]
13								[]	[]	[]
14								[]	[]	[]
15								[]	[]	[]
16								[]	[]	[]

DIDD Review and Authorization of Services:

Total Cost:

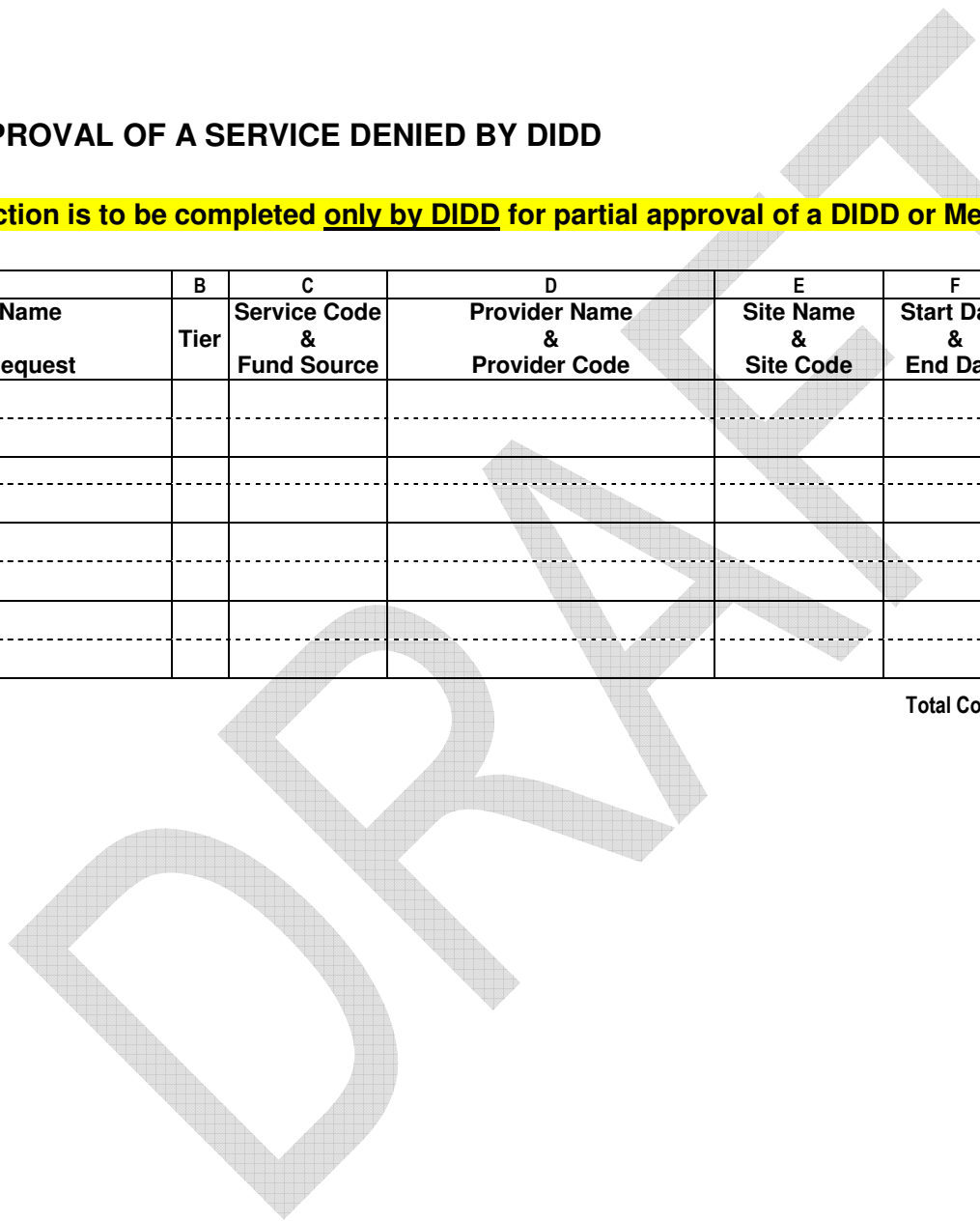
 (Authorizing Signature) (Title) (Date)

* **TYPE OF REQUEST:** 1. Continue Service 2. Add New Service 3. Assessment 4. Delete Service 5. Increase Service 6. Decrease Service 7. Add/Change Provider
 ** **PARTIAL APPROVAL BY DIDD:** For partial approval of a request, DIDD must complete the following section C.3. to indicate details of the partial approval.

3. PARTIAL APPROVAL OF A SERVICE DENIED BY DIDD

(This section is to be completed only by DIDD for partial approval of a DIDD or Medicaid HCBS Waiver Service.)

A	B	C	D	E	F	G	H	(DIDD USE ONLY)
Service Name & Type of Request	Tier	Service Code & Fund Source	Provider Name & Provider Code	Site Name & Site Code	Start Date & End Date	Unit Rate & Unit Type	# of Units & Cost	Partial Approval
1.								[]
2.								[]
3.								[]
4.								[]
Total Cost:								



(Select One)

(Edition Type)

INDIVIDUAL SUPPORT PLAN

NameField1 NameField2

(Person's Full Name)

ISP Effective Date:

Date ISP Amended:

Amended Section

D. BEHAVIOR SUPPORT PLAN

1. Attach a Copy of the Behavior Support Plan where applicable or, if being amended, attach the amended Behavior Support Plan.

DRAFT

EXHIBIT D

To Exit Plan

**(Freedom of Choice Form and
Information Sheet)**

FREEDOM OF CHOICE FORM

If you qualify for care in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), **you have the right to choose between:**

- **Services in your own home in the community under the Medicaid Home and Community Based Services (HCBS) Waiver program; or**
- **Services in an ICF/IID.**

The Medicaid Home and Community Based Services (HCBS) Waiver program provides services in your home and community. “Your own home” could be the home of a family member, or a home or apartment that you rent or own. You get to help choose your home. You also get to lead the planning process to help decide what kinds of services you need to live in your home and be part of your community.

You may want to talk with family, friends, or others before you choose between services in your own home or in an ICF/IID. The Department of Intellectual and Developmental Disabilities can provide more information about the HCBS waiver program and ICF/IID services if needed.

Please check one of the boxes below to tell us your choice:

[]	<p>I want to be in the Medicaid HCBS Waiver program and get services in my home and community. I will have the following rights:</p> <ul style="list-style-type: none"> • To choose any available qualified provider for my services; • To choose a different service provider if I am not happy; and • To appeal if I am not given my choice.
[]	<p>I want to receive services in an ICF/IID. I will have the following rights:</p> <ul style="list-style-type: none"> • To choose any available qualified provider for my services; • To choose a different service provider if I am not happy; and • To appeal if I am not given my choice.

Name of Enrollee _____

Social Security Number _____

Signature of Enrollee (or Authorized Representative) _____

Date _____

Signature of DIDD Representative _____

Date _____

Residential Service Options

This is a list of some of the most common types of residential services for people with intellectual disabilities in Tennessee. It includes a brief description of each service. This list is not all-inclusive; there continue to be new approaches to providing residential services in the DIDD (Department of Intellectual and Developmental Disabilities) system. This list is simply an overview of the most common models already in place.

There are two basic kinds of residential services: Home and Community Based Waiver Services (HCBS) and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). HCBS are provided under the State's Medicaid HCBS Waiver program.

The Medicaid HCBS Waiver program provides services in the person's home and community—outside of an ICF/IID. The person's "own home" could be the home of a family member, or a home or apartment that the person rents or owns. For some services, it could also be a home owned or leased by the provider. The person supported gets to help choose their home and who they live with. Regardless of the kind of HCBS, the person is responsible for paying their living expenses, including rent, utilities, food, etc.

To receive HCBS waiver services, a person must qualify for ICF/IID services, but choose to receive services in a more home-like setting. Instead of one agency providing all services the person needs (as it is in an ICF/IID), in the HCBS Waiver, the person or their conservator can choose a provider for each waiver service they need. The services the person needs will be part of their Individual Support Plan (ISP). These can include residential services, employment and day services, therapy services, nursing services, and other waiver services covered in the State's approved waiver. The person will also receive independent support coordination (ISC) services to develop their ISP, request needed services, and monitor the ISP and the delivery of services to assure that their needs are met. The person supported gets to lead the planning process to help decide what kinds of services they need to live in their home and be part of their community. The residential agency is selected by the person(s) supported and provides needed staffing to support the person(s) with maintaining their home, managing the day-to-day routines in the home (meals, cleaning, hygiene, etc.), making sure each person's needs are met, and helping each person be as independent as possible and participate in their community. Except for Medical Residential Services, the provider agency does not deliver medical services. However, they are responsible for helping to arrange the person's medical appointments and transportation to those appointments. The provider agency is also responsible for providing needed transportation to support work, recreation and leisure activities.

Under federal law, ICFs/IID are institutions. The State's Developmental Centers, including Clover Bottom and Green Valley, are ICFs/IID. The State also operates a limited number of 4-bed ICF/IIDs. The State will not be building any more 4-bed homes. In addition, there are other ICFs/IID that are operated by private (non-State) providers. These also include many smaller 4-bed homes, some 8-bed homes, and a few larger facilities. Even though ICFs/IID are institutions, the State and most other ICF/IID providers try to help make sure the ICF/IID feels like the person's home and that people in the ICF/IID also have opportunities to be part of their communities.

HCBS Waiver Service	Description
Supported Living	<p>This is the most common type of residential living arrangement in Tennessee. A supported living home is a community home or apartment, leased or owned and controlled by the person(s) supported. It is in their name, and it is their home. No more than three people can live together and receive Supported Living services. The people who live in the home (or their conservators) get to help choose the staff who work in the home—typically in shifts. (Less often, the staff may live with the person in their home.) The person supported also gets to help choose their housemates. They also get to help decide how things are done in the home, and have choice and control over their everyday lives. If the person(s) supported want to change provider agencies, they do not have to physically move; it is their home. A new provider agency replaces the existing provider agency in the person’s current home at an agreed-upon date. Supported living homes must pass a DIDD Site Inspection prior to the person living and receiving services there.</p>
Residential Habilitation	<p>Residential Habilitation services are provided in a home that is owned or leased and controlled by a provider agency. These are often called “group homes.” Residential Habilitation homes can serve up to four people unless they were started before 2000. (There are a few larger homes started before 2000 that serve up to ten people.) The amount of input that the persons served have in selecting support staff is more limited. People receiving Residential Habilitation services pay their room and board costs to the provider. Food and basic supply items are then paid for by the agency, and the person is responsible for clothing items and other personal items. The agency is responsible for upkeep and maintenance of the home. Generally the home is supported by shift staff, but sometimes there is a live-in home manager. Residential Habilitation homes are inspected and licensed by the state.</p>
Family Model Residential Support	<p>In family-model residential support, the person lives with no more than two other people receiving support in the home of a trained caregiver who is not the person’s family. The intent of this model is to make the person(s) a part of the caregiver’s family and community. The person or conservator should get to choose the Family Model Residential agency as well as whether they want to live with a specific family model caregiver. The home is leased or owned and controlled by the caregiver. The person pays room and board to the Family Model Residential Support provider. Food and basic supply items are paid for by the agency, and the person is responsible for clothing items and other personal items. The owner of the home is responsible for maintenance and upkeep. The home is inspected and monitored by the provider agency.</p>
Medical Residential Services	<p>This type of residential service combines nursing services for people who need daily skilled nursing tasks with other supports needed to live safely in the community. Medical Residential Services is only for people who</p>

	<p>need skilled nursing tasks three or more times per day. The nursing services must be ordered by a licensed prescriber. In addition to shift support staff, a nurse is available to all persons who live there up to 24 hours a day, depending on the nursing needs of each person living in the home. (If needed medical services can be provided by short nursing visits up to three times a day, the person will not qualify for medical residential services.) These homes may be supported living homes (owned or leased by the person) or residential habilitation homes (owned or leased by the provider). The home functions like either a Supported Living or Residential Habilitation home (see above), depending on how the home is licensed, but with additional nursing services the person needs.</p>
<p>ICF/IID Services</p>	<p>ICF/IID services are not HCBS, even if the ICF/IID is operated by the State or a private provider in the community. ICF/IID services also different from HCBS waivers services in part because the ICF/IID agency must provide or arrange for <i>all</i> of the services the person needs (including residential supports, employment and day services, medical and nursing services, therapy services, dental services, etc.). Room and board are part of the ICF/IID service, so the provider pays the person’s living expenses. However, under federal law, all of the person’s income (except for a small monthly personal spending allowance of between \$30-\$50/month) must go to the provider to help offset the Medicaid cost of care. Even though federal law says that ICFs/IID are institutions, of all of the kinds of HCBS Waiver residential services, they are most like Residential Habilitation homes. The person can choose the ICF/IID provider, but will not get to choose the staff who provide needed support. People receiving ICF/IID services are supported by shift staff. A nurse may be continuously on site or may make visits to the home, depending upon the needs of the persons who live there. Most of these homes provide services for four or eight persons, and the homes are owned and controlled by the provider agency. The person has no control over staff, housemates, or other aspects of the operation of the home. State law limits the number of ICF/IID beds that can be available. If this service is chosen, generally the person or conservator must choose a provider from those agencies who have vacancies and are able and willing to meet the person’s needs. However, additional beds can be created by private providers for people moving out of a Developmental Center. The State will not be building any new ICF/IID homes.</p>