

**CUYAHOGA COUNTY
UNIVERSAL PRE-KINDERGARTEN (UPK) CONTRACT
WITH
EAST CLEVELAND CITY SCHOOL DISTRICT – SUPERIOR
ELEMENTARY SCHOOL**

This contract made and entered into this _____ day of _____, 2012 (the "CONTRACT") by and between the County of Cuyahoga, Ohio (the "County"), on behalf of the Office of Early Childhood ("OEC") and East Cleveland City School District – Superior Elementary School, a not-for-profit public school, with principal offices located at 14305 Shaw Avenue, East Cleveland, Ohio 44112, (the "PROVIDER").

1. **SCOPE OF WORK/PROVIDER DELIVERABLES:** The purpose of the Universal Pre-Kindergarten ("UPK") Program ("UPK Program") is to assure that all 3 to 5 year olds enrolled in a participating public or private child care center, preschool, or family child care home receive high quality care that promotes their development and readiness for kindergarten. Subject to the terms and conditions set forth in this CONTRACT and the attached exhibits (the "Exhibit or Exhibits") (such "Exhibits" are deemed to be a part of this CONTRACT), the County agrees to purchase and the PROVIDER agrees to develop and/or administer, manage, and ensure quality assurance of the Universal Pre-Kindergarten Program in Cuyahoga County, for the OEC, according to conditions set forth in Exhibit I.
2. **CONTRACT PERIOD:** This CONTRACT is effective for the period commencing August 31, 2012 through July 31, 2013.
3. **CONTRACT VALUE AND RATE OF PAYMENT:** The aggregate value of this CONTRACT for all services shall not exceed \$76,160.00 ("Funds"). Funds may be used interchangeably between UPK Program Services and UPK Scholarships (the "Services"), as defined below, for allowable expenses for the current program year up to five percent (5%) of the total contract value without permission FROM OEC. To move any amount over five percent (5%) between Services, PROVIDER must request written permission. Costs for the current UPK Program year are as follows:

\$76,160.00 is the amount for UPK Program Services: PROVIDER shall perform the UPK Program Services for the County described in Exhibit II. The County shall pay the PROVIDER an amount each month based on the total number of class days for each eligible child at a unit rate of \$6.80 for each full class. The PROVIDER agrees to serve an average number of 64 children per month; and

\$0.00 is the amount for UPK Scholarships. These scholarships will offset the cost to parents of attendance for the UPK Program. The Funds shall be used exclusively to cover thirty-three percent (33%) of the total amount of eligible Parents' Actual Fees – described in Exhibit II - for households with incomes at or below four hundred percent (400%) of the Federal Poverty Limit (FPL) based on the 2012 Federal Poverty Level Guidelines as published in the Federal Register in January 2012

Any remaining or unspent funds in this CONTRACT may be carried over in the event the CONTRACT is extended or amended and with the approval of OEC.

4. **AVAILABILITY OF FUNDS:** Payments for all Services provided in accordance with the provisions of this CONTRACT are contingent upon the availability of public and private funds designated for this program. The PROVIDER also warrants that any cost incurred pursuant to this CONTRACT will not be allowable or included as a cost of any other financed program.
5. **COST AND DELIVERY OF PURCHASED SERVICES:** Subject to the limitations specified in Article 1 and Exhibit I as set forth herein, the PROVIDER will be paid according to the criteria listed in Article 2 and Exhibit II.
6. **FAMILY ELIGIBILITY & FEE REDUCTION GUIDELINES:** Family eligibility and fee reduction guidelines for this program shall be determined by the PROVIDER based on eligibility requirements set forth in Exhibit II.
7. **BILLING REQUIREMENTS:** In order to receive payment for Services rendered against this CONTRACT, the PROVIDER must submit typed and preferably computer-generated cost reimbursement invoices on a monthly basis to the COUNTY. All invoices must be completed, signed and submitted at the close of each calendar month along with the Monthly Attendance Report Summary, Classroom Attendance Report(s) By Child, and the Absentee Reasons Report(s) from the COPA System, and fully completed UPK Parent Scholarship Worksheet(s). Monthly invoices and the appropriate support documentation should be mailed to the attention of:
Helen McCoy, Fiscal Manager
Office of Early Childhood
310 W. Lakeside Avenue – Suite 565
Cleveland, OH 44113
8. **PAYMENT:** The COUNTY shall review each invoice and all support documentation submitted for completeness and accuracy prior to payment. The COUNTY will process complete and accurate invoices for payment within thirty (30) calendar Days.
9. **DUPLICATE BILLING:** The PROVIDER warrants that expenses submitted to OEC for payment of Services are for actual services rendered to or on behalf of

eligible families and these charges are not subject to nor constitute duplicate claims submitted to any other federal, state, local funder for reimbursement of the same services. The PROVIDER shall continue to use existing revenue sources for parent fee subsidies for eligible UPK Services and shall not use funds provided through this CONTRACT as a means to reduce or supplant the use of other sources of public and private funds for this Program.

10. **EVALUATION:** The effectiveness of the PROVIDER's services shall be measured by the achievement of the expected outcomes specified in the CONTRACT particularly Article 1 and Exhibit I. Failure to achieve performance goals may result in the termination of this CONTRACT.
11. **MONITORING AND EVALUATION:** OEC, its contracted agency and the PROVIDER will monitor the manner in which the terms of the CONTRACT are being carried out. Objectives should be set and level of compliance monitored in order to evaluate the extent to which Program objectives contained in this CONTRACT are being achieved. The PROVIDER agrees to provide OEC with reports as specified particularly Article 1 and Exhibit I relative to the effective operation of this Program on a monthly or quarterly basis, as determined by OEC, and a final report not more than sixty (60) days after the end of the CONTRACT containing a complete financial reconciliation and a full program evaluation of activities during the CONTRACT period.
12. **SUBCONTRACTING:** Subcontracting or reassignment of any portion of UPK Services in the performance of the scope of work is not permitted. Therefore, the PROVIDER is prohibited from subletting, subcontracting or reassigning any portion of UPK Services contained in Article 1 or Exhibit I of this CONTRACT to any other agency or entity.
13. **FINANCIAL RECORDS:** The PROVIDER shall maintain independent books, records, payroll, documents, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this CONTRACT. Such records shall be subject at all reasonable times for inspection, review, or audit by duly authorized federal, state or department personnel. Such records shall also be subject to inspection by the individual or entity selected for an audit if required by Article 15 of this CONTRACT.
14. **AVAILABILITY AND RETENTION OF RECORDS:** The PROVIDER shall maintain and preserve all records related to this CONTRACT and the administration of this Program for a period of three (3) years. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three (3) year period, the PROVIDER shall retain the records until completion of the action and all issues which arise from it, or until the end of the three (3) year period, whichever is later.

15. **PROGRAMMATIC & FISCAL AUDIT RESPONSIBILITIES:** The PROVIDER shall submit any reporting, auditing, monitoring or quality assurance requests made in writing to the PROVIDER by OEC during the CONTRACT period as specified in, but not limited to, Articles 9 and 11 of this CONTRACT and Exhibits I and III.

The PROVIDER also agrees to, if required by the Director of OEC on the basis of evidence of misuse or improper accounting of funds, to conduct an independent audit of expenditures and make copies of the audit available to OEC. Failure to provide such information shall be reason to suspend payments to the PROVIDER until any and all questions or irregularities are resolved.

In addition, the PROVIDER shall submit to OEC, an Annual Compliance Audit conducted by an independent CPA individual or firm in compliance with Federal OMB Circular A-133 if expenses incurred against this CONTRACT are over \$300,000.00 or in accordance with the Government Auditing Standards and Statement on Auditing Standards No. 74 if under \$300,000.00.

16. **FINDINGS FOR RECOVERY.** PROVIDER represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24. If this representation and warranty is deemed to be false, this CONTRACT is void ab initio, and PROVIDER must immediately repay to COUNTY any funds paid under this CONTRACT and must make COUNTY whole for any damages sustained by COUNTY.
17. **DECLARATION OF MATERIAL ASSISTANCE.** PROVIDER represents and warrants that it has not provided any material assistance as that term is defined in Ohio Revised Code Section 2909.33(c), to any organization identified by and included on the United States Department of State Terrorist Exclusion list. PROVIDER further represents and warrants that either (1) it does not meet the monetary threshold under Ohio law to be required to complete and submit a Declaration of Material Assistance ("DMA") form in connection with this transaction; (2) it is not required to submit a DMA form under Ohio law because it is certified with the State of Ohio's Office of Budget and Management and its certification is current and up-to-date; or (3) it has completed a current DMA form with an answer of "no" to all questions and submitted it to COUNTY in connection with this CONTRACT. If any of these representations and warranties is found to be false, this CONTRACT is void ab initio, and PROVIDER shall immediately repay to COUNTY any funds paid under this CONTRACT. It is PROVIDER'S responsibility to ensure compliance with the DMA requirements, including monitoring the threshold of its business with COUNTY and filing all required forms with COUNTY as required by law. Information regarding these forms and requirements may be found on the Ohio Homeland Security website at: <http://www.publicsafety.ohio.gov/links/HLS0038.pdf>
18. **PUBLIC RECORDS:** PROVIDER shall treat as proprietary and confidential any and all information belonging to COUNTY, including any information concerning UPK families, which is disclosed to PROVIDER in the course of performance of

Services under this CONTRACT (the "Confidential Information"). PROVIDER shall only use Confidential Information for the purposes of this CONTRACT. PROVIDER agrees not to disclose or reveal to any outside party or use for its own benefit, either directly or indirectly, any information which it may acquire or develop or, has acquired or developed concerning private or confidential matters, information, or data of COUNTY without prior written permission of COUNTY. If PROVIDER fails to meet its obligations to protect the Confidential Information, COUNTY may seek equitable relief. Confidential Information shall not include information that is in the public domain. This entire Article shall survive the completion of the performance of the work hereunder and the termination of this CONTRACT.

19. **RESPONSIBILITY FOR AUDIT EXCEPTIONS:** The PROVIDER agrees to accept responsibility for receiving, replying to or complying with any audit exception by appropriate federal, state or local governmental agency directly related to the provisions of this CONTRACT. The PROVIDER agrees to pay or refund the COUNTY for all amounts due as a result of audit exceptions through this CONTRACT.
20. **SAFEGUARDING OF CLIENT INFORMATION:** The PROVIDER agrees that the use or disclosure of any information concerning UPK families to any organization for any purpose not directly related with administration of this program is prohibited except upon the written consent of the parent or OEC.
21. **CIVIL RIGHTS AND HANDICAPPED:** OEC and the PROVIDER agree that as a condition of this CONTRACT, there shall not be discrimination against any Program participant or any employee because of race, color, sex, religion, national origin, age, sexual preference, disability, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1983 and subsequent amendments. It is further agreed that the PROVIDER will comply with all appropriate federal and state laws regarding such discrimination and the rights to and method of appeal will be made available to all persons under this CONTRACT. If the PROVIDER is found to be out of compliance with this paragraph, it may be subject to investigation by the Office of Civil Rights Commission and termination of this CONTRACT.
22. **INDEMNIFICATION:** The PROVIDER agrees to indemnify and save the County of Cuyahoga, all of its officials, officers, departments, agents and employees harmless from suits or actions of every nature and description, brought against the County or any and all of its officers, agents, servants or employees thereof, for or on account of any injuries or damages received or sustained by any party of, or from any act of the PROVIDER or its employees that arise out of the performance of the service(s) contemplated by this CONTRACT.
23. **INSURANCE:** The PROVIDER shall be insured or contract for such insurance as is reasonably necessary to adequately secure persons against reasonable or

foreseeable torts, which would cause injury or death. Liability Insurance and Workers Compensation Insurance must be in effect through the contract period and any amended contract period. Copies of these renewed certificates **MUST BE SUBMITTED** to the Cuyahoga County Office of Early Childhood upon issuance.

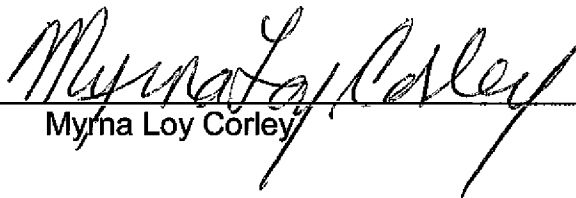
24. **VIOLATION OR BREACH OF CONTRACT:** This **CONTRACT** is subject to administrative, contractual or legal remedies for violation or breach of contract terms caused by the **PROVIDER** as specified in but not limited to Exhibit III.
25. **CONTRACT TERMINATION:** Upon thirty (30) calendar days written notice to the other party, either party may terminate this **CONTRACT**. In addition, OEC reserves the right to terminate this **CONTRACT** for any of the reasons listed in Exhibit III after completion of the Review Procedure steps in Exhibit III. In either case, OEC and the **PROVIDER** shall agree on a reasonable phase out of the Program as a condition of the termination including Obligations of Terminated Provider as outlined in Exhibit III.
26. **APPLICABILITY OF CONDITIONS:** Both parties to this **CONTRACT** shall comply with those rules set forth in the Ohio Administrative Code (OAC) as they relate to the operation of activities under the UPK Program.
27. **GRIEVANCE PROCEDURES:** The **PROVIDER** will notify OEC in writing of all grievances and requests for a hearing (if applicable) initiated by UPK clients or other program participants, which involve the services provided through this **CONTRACT**. The **PROVIDER** shall submit pertinent facts or resolution of grievances/hearings within thirty (30) calendar days to OEC. This information should be sent to:

The Office of Early Childhood
Attn: Rebekah Dorman, Director
310 W. Lakeside Avenue – Suite 565
Cleveland, OH 44113
28. **CONTRACT AMENDMENT:** This **CONTRACT** may be amended at any time upon agreement by all parties along with a written amendment signed by all parties and then approved by the **COUNTY**.
29. **PUBLICITY:** In any publicity release or other public reference including a media release, information pamphlets, etc., on the services provided under this **CONTRACT**, the release should clearly state that the UPK Program is a part of, and funded by the **COUNTY** and the Office of Early Childhood for the Invest in Children Program. The **PROVIDER** is also responsible for providing a copy of the publicity release to OEC prior to the release.
30. **LAW:** This **CONTRACT** is subject to and will be interpreted in accordance with all applicable Federal, State and Local laws.

31. **MAINTENANCE OF SERVICES:** The PROVIDER certifies that the services being reimbursed are not available from the PROVIDER on a non-reimbursable basis or for less than the unit cost. The PROVIDER certifies that the level of service existing prior to the contract shall be maintained.
32. By entering into this CONTRACT I agree on behalf of the contracting or submitting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring County signatures may be executed by electronics means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the COUNTY and the PROVIDER have entered into this agreement as of the day and year first written above.

EAST CLEVELAND CITY SCHOOL DISTRICT – SUPERIOR ELEMENTARY SCHOOL:

BY: 
Myrna Loy Corley

COUNTY OF CUYAHOGA, OHIO: Edward FitzGerald, County Executive

BY: 
2013-02-01 11:38:58
Edward FitzGerald, County Executive