

**CUYAHOGA COUNTY
COURT OF COMMON PLEAS, JUVENILE COURT DIVISION
COMMUNITY DIVERSION PROGRAM
CITY OF LYNDHURST
AGREEMENT**

THIS AGREEMENT is entered into this ____ day of _____, 2013 by and between the County of Cuyahoga, Ohio (hereinafter called the "COUNTY"), the Cuyahoga County Court of Common Pleas, Juvenile Court Division (hereinafter called the "COURT") and **City of Lyndhurst**, a government entity, with principal offices located at 5301 Mayfield Road, Lyndhurst, Ohio 44124 (hereinafter called the "VENDOR").

WITNESSETH THAT:

WHEREAS, the COURT desires to engage the VENDOR'S professional and technical services to develop and implement the Community Diversion Program (hereinafter called the "CDP"), or utilize another COURT-approved CDP to hear misdemeanor and status offense complaints that occur in the **City of Lyndhurst** or are committed elsewhere by **Lyndhurst** residents and the VENDOR can provide these services from January 1, 2014 to December 31, 2014. Attachment A identifies some of those misdemeanor and status offenses appropriate for diversion.

NOW THEREFORE, the parties hereto do mutually agree as follows:

- I. TARGET POPULATION - The youth referred to the project shall be males and females, ages 10 to 17. These youth shall be residents of Cuyahoga County referred by the COURT'S Intake Department (hereinafter called the "YOUTH").
- II. DESCRIPTION OF SERVICES - The CDP shall be developed and implemented according to standards developed by the COURT, which include, but are not limited to:
 - A. The CDP shall have access to at least one Volunteer Magistrate provided by the VENDOR.
 1. A Volunteer Magistrate should be an attorney in good standing, licensed by the State of Ohio or employed by the federal government, and approved by the COURT.
 2. The Volunteer Magistrate shall complete the orientation program and paperwork provided by the COURT.
 - B. The COURT shall review and approve the CDP procedures implemented by the CDP.
 - C. The VENDOR shall have a confidential filing system that the COURT shall review.
 - D. The VENDOR is subject to verification of funding by the COURT.
 - E. The VENDOR shall monitor participants in the CDP program one (1) year from the date of the hearing.
 - F. The VENDOR shall follow reporting requirements as laid out below.
 1. The VENDOR agrees to furnish to the COURT by the first (1st) day of each month the monthly CDP Database Report completed in its entirety for each child diverted during the previous month. For example, all data on diversion hearings occurring in January must be reported by February 1. This data includes, but is not limited to, the type of offense committed by the child and information pertaining to the outcome

- (sanctions and services) of the diversion hearing. The VENDOR will report this data to the COURT using the Access database format established by the COURT. The COURT will supply the VENDOR with a database disk. Failure to report the data by the first (1st) day of each month or to follow the Access database format is grounds for discontinuing funding and jeopardizes future eligibility for funding.
2. Information reported in the database will be used for statistical and financial analysis only. Access to this information will be restricted by the COURT.

III. DESCRIPTION OF SERVICES FOR ANCILLARY PROGRAMMING - Additional funding shall be made available for the explicit use for direct youth services for COURT-involved YOUTH that are referred to the Community Diversion Program. Programs that meet this standard shall be approved in advance by the COURT's Community Diversion Coordinator. The VENDOR shall submit the required monthly data regarding the YOUTH being served through this program. If the COURT does not receive the monthly data (as required), the VENDOR will not receive payment until the data has been submitted.

IV. OPERATIONAL DETAILS -

A. SERVICE SITE: YOUTH are served at a mutually agreed upon site.

B. CONTACT PERSON:

VENDOR

Ms. Kathy Tomaro
5301 Mayfield Road
Lyndhurst, Ohio 44124
(440) 442-1234

COURT

Heather Corcoran
9300 Quincy Avenue
Cleveland, Ohio 44106
(216) 443-8428

IV. OBJECTIVES - The VENDOR shall ensure that the following Objectives and Performance Indicators are met for the program provided under this AGREEMENT:

Objectives

1. 75% of referred YOUTH admitted to the program during the contract period will successfully complete the program.
2. 100% of referred YOUTH admitted to the program will have CDP data electronically submitted in the CDP Access database within one month of admission to the program.

Performance Indicator

1. Number of referred YOUTH admitted to the program during the contract period.
2. Number of YOUTH admitted to the program whose CDP data is electronically submitted in the CDP Access database within one month of admission to the program.

V. **BUDGET** - Funding for this AGREEMENT is contingent upon the availability of funds. Community Diversion Program general funding is not to exceed **\$4,800.00** per 12-month period. Funding for the Ancillary Program shall not exceed **\$5,000.00**. All funds disbursed to the VENDOR from the COURT shall be audited and monitored by the COURT. Failure to provide adequate or substantial verification of receipt and expenditure of funds shall result in the COURT discontinuing funding. Should the COURT discontinue funding, the VENDOR must reimburse all remaining funds for which substantial documentation of receipt or expenditure cannot be produced. If more than 50% of the allocated funding is not spent at the end of this AGREEMENT, the VENDOR will return the funding to the COURT.

- A. While the general funding shall be in monthly installments, the VENDOR shall receive funds via quarterly invoices in the amount of **\$1,250.00**. The VENDOR shall submit a maximum of four invoices during the AGREEMENT term. These invoices will be separate from the regular invoices that are submitted on a monthly basis for CDP programming. The VENDOR may invoice the COURT on the following date options:

Invoice Date
January 1, 2014
April 1, 2014
July 1, 2014
October 1, 2014

- B. **Incurring Costs:** The COURT shall not be responsible for any cost incurred by the VENDOR prior to commencement and subsequent to the termination of this AGREEMENT.
- A. **Monthly Fiscal Report:** The VENDOR shall, within ten (10) days following the last day of each month, submit an invoice for a monthly payment of **\$400.00** to the COURT. No invoices will be processed without an accompanying electronic submission of all CDP data in the Access database. All invoices shall include the VENDOR'S name, program name, address, phone, invoice number, federal tax ID number, VENDOR number and month on it. All invoices must be signed and dated for verification by the VENDOR. Failure to comply with submission of the invoice within the ten (10) day submission rule may result in the COURT not processing the invoice for payment. Additional or corrected invoicing for services beyond the previous month must be requested separately in writing describing the reasons for the additional billing along with specific supporting documentation to substantiate the requested claim. Under no circumstance will the COURT accept or process any initial invoices received after sixty (60) days following the end of the month that the service was provided in. For example, if the service was provided within January, then the 60 day period expires on March 31.
- B. **Invoice Review:** The COURT shall accept the electronic invoice as evidence of its receipt by the COURT. The electronic invoice shall be deemed received the date it is sent by the VENDOR. The COURT shall review invoices for completeness before making payment. The invoices submitted are subject to adjustment for computational or processing errors, incorrect rates, non-covered services and to audit by the COURT.

VI. RETENTION OF ACCOUNTING AND REPORTING PROCEDURES - The VENDOR shall maintain and preserve all fiscal and programmatic records, books, documents and papers that pertain to the performance of this AGREEMENT. Such records shall be subject to inspection, review and audit by COURT personnel. The VENDOR shall maintain the aforementioned records for at least five (5) years following the termination of this AGREEMENT or longer period, as may be required by the applicable records retention schedule.

VII. PROFESSIONALLY WRITTEN RECORDS - All correspondence and reports to the COURT shall be computer-generated and shall appear professional, with the VENDOR'S name, address, and contact information included.

VIII. ON SITE VISITS - The COURT shall be allowed to access, review and discuss activities and records and shall be allowed to interview individual youth, family, and/or VENDOR'S staff that are served or paid in whole or in part under this AGREEMENT.

IX. BUILDING CODES-SAFETY ORDINANCES - If applicable, all buildings, offices and facilities utilized by the program where the YOUTH shall be present shall conform to and abide by all Federal, State, County and City building codes and safety ordinances. Documentation of such shall be presented to the COURT upon request.

X. INSURANCE - The VENDOR shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this CONTRACT.

A. **Mandatory Insurance Requirements** - The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless otherwise specified.

1. Worker's Compensation Insurance as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

- \$1,000,000 each accident for bodily injury by accident;
- \$1,000,000 each employee for bodily injury by disease;
- \$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

2. Commercial General Liability Insurance with limits of liability not less than:
 - \$1,000,000 each occurrence bodily injury & property damage;
 - \$1,000,000 personal & advertising injury;
 - \$2,000,000 general aggregate;

\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

3. Business Automobile Liability Insurance covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

B. Additional Insurance Coverage

1. Errors & Omissions Liability Insurance providing coverage for claims arising out of the provision of design, architectural, engineering and/or other professional services with a limit of liability not less than:
\$5,000,000 per claim;
\$5,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

C. Insurance Coverage Terms and Conditions - The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:

- Thirty (30) days prior notice of cancellation or material change;
 - A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.
1. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.
 2. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.
 3. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.
 4. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.
 5. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.
 6. The Contractor shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force

and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

XI. ANTI-DISCRIMINATION - The County will follow its policies of non-discrimination.

VENDOR hereby agrees that in all matters pertaining to the employment of labor, skilled or unskilled, in the performance of this AGREEMENT, the VENDOR shall at all times conduct its business in a manner that assures there shall be no discrimination exercised against any person because of race, color, national origin, religion, age, handicap, veteran status or any factor as specified in the Civil Rights Act of 1964 and subsequent amendments. It is further agreed that the VENDOR shall fully comply with all appropriate Federal and State laws regarding such regulations including the Americans with Disabilities Act.

XII. ASSIGNABILITY - None of the work or services covered by this AGREEMENT shall be subcontracted without the prior written approval of the COURT.

XIII. RELIGIOUS AFFILIATIONS - Religious programs/programming if offered shall be voluntary and non-denominational. Non-participation by YOUTH shall not result in any penalty.

XIV. CONFIDENTIALITY - The parties will comply with all laws regarding confidentiality including, but not limited to, R.C. 2151.421, R.C. 5153.17 and, as applicable, R.C. 5101.131. In addition, products of mediation, mediators' notes, mediation records and mediation communications are confidential and subject to the restrictions set forth in O.R.C. 2317.02, O.R.C. 2317.023, and O.R.C. 3109.052. Authorized COURT representatives shall be allowed reasonable access to VENDOR'S records for review of activities that pertain to the performance of this AGREEMENT, and to interview individual participants served and/or VENDOR staff paid under this AGREEMENT only after permission is obtained from the affected mediation participants and suitable written assurances of confidentiality are given to the VENDOR. This does not authorize a jurist, public defender, prosecutor, COURT employee, or State of Ohio employee to obtain information about a specific mediation in contravention of the specified statutes. The VENDOR shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the COURT, its financial affairs, its relations with its citizens and its employees as well as any other information which may be specifically classified as confidential by the COURT. Client related information is highly confidential. All Federal and State regulations and statutes related to confidentiality shall be applicable to the VENDOR and it shall have an appropriate contract with its employees to that effect.

XV. LICENSURE - The VENDOR shall have the appropriate license(s) or certification(s) necessary to provide the services of this AGREEMENT. The VENDOR shall also immediately notify the COURT of any change in licensure status affected by the certifying authority.

XVI. AMENDMENT - This AGREEMENT constitutes the entire agreement of the parties in the subject matter hereof and may not be changed, modified, discharged or extended except by written agreement executed by the COURT and the VENDOR. The VENDOR agrees that no representation or warranties shall be binding upon the COURT unless expressed in writing herein or in a duly executed amendment hereof.

XVII. TERMINATION - This AGREEMENT may be terminated by the COURT or the VENDOR upon thirty (30) days prior written notice to the VENDOR. Termination pursuant to this paragraph shall not affect the COURT'S obligation to pay the VENDOR pursuant to the Budget Section of this AGREEMENT for services performed and expenses incurred prior to termination.

XVIII. BREACH OF AGREEMENT REMEDIES - Upon breach or default of any of the provisions, obligations or duties embodied in this AGREEMENT, the parties may exercise any administrative, contractual, equitable, or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of subsequent occurrences, and the parties retain the right to exercise all remedies hereinabove mentioned. If the VENDOR fails to perform an obligation or obligations under this AGREEMENT and thereafter such failure(s) is (are) waived by the COURT, such waiver is limited to the particular failure(s) so waived and shall not be deemed to waive other failures hereunder. Waiver by the COURT is not effective unless it is in writing and signed by the COURT.

XIX. SERVICE CONTINUITY - In the event that the funding for the CDP is not renewed, the VENDOR shall develop a plan for cases still receiving mediation services at the end of the AGREEMENT period and submit to the COURT.

XX. ETHICS REQUIREMENTS - The VENDOR shall comply with all County ethics as well as all requirements within the provisions set forth in State of Ohio, Office of the Governor, Executive Order 2007-01S which establishes new ethics requirements.

XXI. FINDINGS FOR RECOVERY - The VENDOR represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.

XXII. CRIMINAL RECORDS CHECK - The VENDOR shall comply with the provisions as specified in the Ohio Revised Code 109.572 regarding criminal records checks for prospective employees and volunteers. The COURT shall receive upon request verification of police checks, reference checks and confirmation of educational requirements for all employees and volunteers of the VENDOR assigned to this program.

XXIII. PUBLIC RECORDS - All parties hereto acknowledge that the COUNTY is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and

all manner of communication with the COUNTY and any and all documents in any format or media.

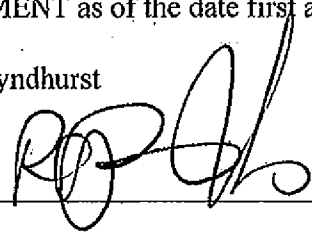
XXIV. GOVERNING LAW AND JURISDICTION - This AGREEMENT shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this AGREEMENT, and each party consents to the exclusive jurisdiction of such courts. The VENDORS hereby agree not to challenge any provision in this AGREEMENT, including this Governing Law and Jurisdiction provision, and not to attempt to remove any legal action outside of Cuyahoga County for any reason.

XXV. This AGREEMENT has been properly authorized pursuant to the required provisions of any and all charter provisions, ordinances, resolutions and regulations of COUNTY and the VENDOR. The individuals signing on behalf of the parties to this AGREEMENT are authorized to execute this AGREEMENT on behalf of the COURT and the COUNTY and the VENDORS.

XXVI. ELECTRONIC SIGNATURES - By entering into this AGREEMENT, the VENDOR agrees on behalf of the contracting 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 electronic means and that the electronic signatures affixed by the COUNTY to said documents shall have the same legal effect as if the signature was manually affixed to a paper version of the document. The VENDOR also agrees on 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, the COURT and the VENDOR have executed this AGREEMENT as of the date first above written.

City of Lyndhurst

By:  11-18-13

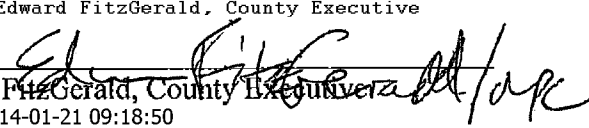
Cuyahoga County Juvenile Court

By:  DCC

Marita Kavalec, Court Administrator

Cuyahoga County, Ohio

Edward FitzGerald, County Executive

By: 

Edward FitzGerald, County Executive

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ATTACHMENT A

Misdemeanor and Status Offenses

<u>Offense Descriptions</u>	<u>Types of Offenses</u>	<u>ORC Statute</u>
Abusing Harmful Intoxicants	M-1	2925.31
Arson (value less than \$500)	M-1	2909.03(A)(1)
Assault	M-1	2903.13(A)
Aggravated Menacing	M-1	2903.21(A)
Aggravated Trespass	M-1	2911.211
Carrying a Concealed Weapon	M-1	2923.12(A)
Cheating	M-1	2915.05(A)(2)
Coercion	M-2	2905.12
Counterfeit Controlled Substances	M-1	2925.37(A)
Criminal Damaging or Endangering	M-2, M-1 (with physical harm)	2909.06(A)(1)(2)
Criminal Trespass	M-4	2911.21(A)(1)
Criminal Mischief	M-3	2909.07(A)(1)
Disorderly Conduct	MM, M-4	2917.11(A)(1)
Domestic Violence	M-1	2919.25(A)(B)
Escape	M-1	2921.34
Failure to Comply with Order	M-1	2921.331(A)
Falsification	M-1	2921(A)(3)
Gambling	M-1	2915.02(A)(2)(4)
Hazing	M-4	2903.31
Importuning	M-1	2907.07(B)
Improperly Handling Firearms in MV	M-1	2923.16(A)
Inciting to Violence	M-1	2917.01(A)(1)
Inducing Panic	M-1	2917.31(A)(1)
Intimidation of a Attorney, Victim, Witness	M-1	2921.04(A)
Making False Alarms	M-1	2917.32(A)(1)
Menacing	M-4	2903.22(A)
Menacing by Stalking (1st Offense)	M-1	2903.211(A)
Misuse of Credit Cards (Less than \$500)	M-1	2913.21(B)(2)
Negligent Assault	M-3	2903.211(A)
Obstruction of Official Business	M-2	2921.31(A)
Open Container Prohibited	MM	4301.62
Petty Theft	M-1	2913.02(A)(1)
Passing Bad Check (Less than \$500)	M-1	2913.11(A)
Possession of Criminal Tools	M-1	2923.24(A)
Possession of Drug Abuse Instruments	M-2	2925.12(A)
Possession of Drug Paraphernalia	M-4	2925.14(C)(1)
Possession of Hashish (Less than 5gms)	MM	2925.11(A)
Possession of Hashish (Not exceed 10gms)	M-4	2925.11(A)
Possession of Marijuana	MM	2925.11(A)
Poss. of Marijuana (Less than 200gms)	M-4	2925.11(A)
Prohibition/Underage Consumption	M-1	4301.69(E)(1)
Procuring	M-1	2907.23(A)(1)
Prostitution	M-3	2907.25(A)
Public Indecency (1st Offense)	M-4	2907.09(A)(1)
Public Indecency (w/prior)	M-3	2907.09

ATTACHMENT A

Offense Descriptions	Types of Offenses	ORC Statute
Receiving Stolen Property (Less than \$500)	M-1	2913.51(A)
Resisting Arrest	M-2	2921.33(A)
Riot	M-1	2917.21(A)(1)
Sexual Imposition	M-3	2907.06(A)(1)
Soliciting Prostitution	M-3	2907.25(A)
Tampering with Coin Machine (1st Offense)	M-1	2911.32
Telecommunications Harassment	M-1	2917.21(A)(1)
Unauthorized Use of a Motor Vehicle	M-1	2913.03(A)
Unauthorized Use of Property	M-4	2913.04(A)
Unlawful Restraint	M-3	2905.03
Using Weapons while Intoxicated	M-1	2923.15
Violation of Protection Order	M-1	2919.27(A)
Voyeurism	M-3	2907.08(A)
Status Offenses		
Curfew Violation		Local Legislation
Incorrigible at Home and School		2151.022(A)
Truancy from Home and School		2151.022(B)
Injure or Endangering		2151.022(C)