

EMPLOYMENT & FAMILY SERVICES
PURCHASE OF SERVICE CONTRACT
WITH
CASE WESTERN RESERVE UNIVERSITY

THIS CONTRACT made and entered into this _____ day of _____, 2010 by and between the County of Cuyahoga, Ohio (the "County"), and Case Western Reserve University a private university with principal offices located at 10900 Euclid Ave, Cleveland, Ohio 44106-7164, (the "Provider").

I. TERM

This contract will be effective from January 1, 2011 through December 31, 2011 inclusive, unless otherwise terminated or extended by formal amendment. The Agency reserves the right to exercise the option, subject to the agreement of both parties, to extend the length of this contract based upon the Agency's program needs, the Provider's performance, and the availability of funds.

The Provider is aware that funding for the services under this contract will not be continued after December 31, 2011. Acknowledgment of its deadline is shown by the initials of the Provider on the line below.

Provider Representative Initials.



The total amount of the contract cannot exceed \$15,900.00 over the life of this contract. If the amount of the invoices exceeds the amount of the contract, the Provider realizes that no additional funds will be paid over and above the total amount of the contract, under any circumstances, even if additional services are provided.

II. PURCHASE OF SERVICE

Subject to the terms and conditions set forth in this contract and the attached EXHIBITS (such EXHIBITS are deemed to be a part of this contract as fully as set forth herein), the Provider agrees to provide Data Collection, Analysis and Reporting on OWF Case Closure and Recidivism for participants as described in Exhibit I, (Statement of Work).

The Provider agrees to acknowledge the financial support of the County on any publications, promotional brochures, media releases, or other publicity materials produced with resources from this contract. This acknowledgement should be displayed in a prominent location.

III. RECORDS AND REPORTING

The Agency reserves the right to request additional reports pertaining to the specific program during the contract period. It is the responsibility of the Provider to furnish the Agency with reports as requested. The Agency may exercise this right without a contract amendment. The Agency reserves the right to withhold payment until such time as the requested and/or required reports to the satisfaction of the Agency are received.

IV. BILLING AND PAYMENT

Billing and Payment – The Provider will submit an invoice following service, with accompanying reports to the Agency as outlined in the Exhibits and Attachments. The Agency will review such invoices for completeness/correctness and any information necessary before making payment within thirty (30) calendar days after receipt of an accurate invoice. The Agency shall not make invoice payments for any services invoiced later than 60 days after the end of the service month without prior Agency approval. The Agency reserves the right to withhold payment until such time as requested and/or required reports are received.

The Provider will indicate on their invoices, the contract number, type of service being rendered, dates service was rendered, and the contract period. The invoice should also show the contract amount minus the invoice amount to reflect the remaining balance on the contract in order to obtain reimbursement.

The Provider warrants that the following unallowable costs were not included in determining the rate of payment and that these costs will not be included in an invoice submitted for payment. For this project, unallowable costs are: bad debt, bonding costs, contingencies, contributions or donations, entertainment costs, costs of alcoholic beverages, goods or services for personal use, fines, penalties and mischarging costs, gains and losses on disposition or impairment of depreciable or capital assets, losses on other contracts, organization costs, costs related to legal and other proceedings, goodwill, asset valuations resulting from business combinations, and legislative lobbying costs.

The Provider warrants that a separate General Ledger account has been established and will be maintained for the revenue and expenses of this contracted program in accordance with the requirements of Section IX.

V. AVAILABILITY OF FUNDS

This contract is conditional upon the availability of federal, state, or local funds that are appropriated or allocated for payment of this contract. If funds are not allocated and available for the continuance of the function performed by the Provider hereunder, the products or services directly involved in the performance of that function may be terminated by the Agency at the end of the period for which funds are available. The Agency will notify the Provider at the earliest possible time of any

products or services that will or may be affected by a shortage of funds. No penalty shall accrue to the Agency in the event this provision is exercised, and the Agency shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

VI. DUPLICATE BILLING

The Provider warrants that claims made to the Agency for payment for services provided shall be for actual services rendered to eligible individuals and do not duplicate claims made by the Provider to other sources of public or private funds for the same service.

VII. AVAILABILITY AND RETENTION OF RECORDS

All records relating to the service provided and supporting documentation for invoices submitted to the Agency by the Provider shall be retained and made available by the Provider for audit by the Agency, the State of Ohio (including, but not limited to, ODJFS, the Auditor of the State of Ohio, Inspector General or duly appointed law enforcement officials) and agencies of the United States government for a minimum of three (3) years after payment under this contract. If an audit is initiated during this time period, the Provider shall retain such records until the audit is concluded and all issues resolved.

VIII. CONFLICT OF INTEREST

This contract in no way precludes, prevents, or restricts the Provider from obtaining and working under an additional contractual arrangement(s) with other parties aside from the Agency, assuming that the contractual work in no way impedes the Provider's ability to perform the services required under this contract. The Provider warrants that at the time of entering into this contract, it has no interest in nor shall it acquire any interest, direct or indirect, in any contract that which will impede its ability to perform the services under this contract.

The Provider further agrees that there is no financial interest involved on the part of any Agency officers, the County or employees of the county involved in the development of the specifications or the negotiation of this contract. The Provider has no knowledge of any situation that would be a conflict of interest. It is understood that a conflict of interest occurs when an Agency or the County employee will gain financially or receive personal favors as a result of the signing or implementation of this contract.

The Provider will report the discovery of any potential conflict of interest to the Agency, and/or the County. Should a conflict of interest be discovered during the term of this contract, the Agency and/or the County may exercise any right under the contract including termination of the contract.

IX. ASSIGNMENTS

The parties expressly agree that the contract shall not be assigned to another Provider without the prior written approval of the Agency.

The Provider may not subcontract any of the services agreed to in this contract without the express written consent of the Agency. All subcontracts are subject to the same terms, conditions, and covenants contained within this contract. The Provider is responsible for making direct payment to all subcontractors for any and all services provided by such contractor.

X. GOVERNING LAW; VENUE

This contract and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio in the state courts located in Cuyahoga County.

XI. INTEGRATION AND MODIFICATION

This instrument with exhibits embodies the entire contract of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or contracts, either written or oral, between the parties to this contract.

Also, this contract shall not be modified in any manner except by an instrument, in writing, executed by the parties to this contract.

XII. SEVERABILITY

If any term or provision of this contract or the application thereof to any person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this contract or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this contract shall be valid and enforced to the fullest extent permitted by law.

XIII. TERMINATION

The Agency may terminate this contract, for any reason, upon 30 day written notice delivered to the Provider. The Provider may terminate this contract upon 30 day written notice delivered to the Agency, subject to the following: Provider agrees that it will be considered a material breach of this contract on Provider's part if Provider terminates service on this contract without cause, which is defined as:

- The Agency failing to meet the terms and conditions specified in the contract, or

- The Agency, through action or inaction on the Agency's part, rendering performance by the provider impossible.

The notice should be sent to the attention of the Contract Manager at 1641 Payne Avenue, Room 510, Cleveland, Ohio 44114. The Agency and the Provider shall agree on a reasonable phase-out of the program as a condition of the termination.

The parties further agree that should the Provider become unable to provide the services agreed to in this contract for any reason or otherwise materially breach this contract, such service as the Provider has provided upon the date of its inability to continue the terms of this contract shall be eligible to be billed and paid according to the provisions of Section IV – Billing and Payment.

The parties further agree that should the Provider become unable to complete the services requested in this contract for any reason, such work as the Provider has completed upon the date of its inability to continue the terms of this contract shall become the property of the Agency.

Neither the Agency nor the County shall be liable to pay to the Provider any further compensation after the date of the Provider's inability to complete the terms hereof, or the date of termination of this agreement whichever is later, unless extended upon an agreement of the parties. It is agreed that even if the Provider renders services for which payments are due, that no payments will be made after the termination of this agreement, either as a result of a default in the terms hereof or the day of termination of the contract, unless extended by an agreement of the parties.

Notwithstanding the above, the Provider shall not be relieved of liability to the Agency for damages sustained by virtue of any breach of the contract by the Provider. The Agency may withhold any compensation to the Provider for the purpose of off-set until such time as the amount of damages due the Agency from the Provider is agreed upon or otherwise terminated.

XIV. COMPLIANCE

The Provider certifies that the Provider and all subcontractors who provide direct or indirect services under this contract will comply with all requirements of federal laws and regulations, applicable OMB circulars, state statutes and Ohio Administrative Code rules in the conduct of work hereunder. The Provider accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions required for the performance of the work by the Provider's full time employees.

XV. NON-DISCRIMINATION

The Provider certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act, as amended, and the Ohio Civil Rights Law.

During the performance of this contract, the Provider will not discriminate against any employee, contract worker, or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. The Provider will take affirmative action to ensure that during employment, all employees are treated without regard to race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. These provisions apply also to contract workers. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that the Provider complies with all applicable federal and state non-discrimination laws.

The Provider, or any person claiming through the Provider, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this contract, or in reference to any contractors or subcontractors of said Provider.

XVI. INDEMNIFICATION

The Provider agrees to protect, defend, indemnify and hold the Agency, the County, their officers, employees and agents, free, clear and harmless from and against any and all losses, penalties, damages, settlements, costs or liabilities of every kind and character arising out of or in connection with any acts or omissions of the Provider, negligent or otherwise, and its employees officers, agents, or independent contractors.

The Provider agrees to pay all damages, costs and expenses of the Agency, officers, agents, employees and the County in defending any action arising out of the aforementioned acts or omissions.

XVII. RELATIONSHIP

Nothing in this contract is intended to, or shall be deemed to constitute a partnership, association or joint venture with the Provider in the conduct of the provisions of this contract. The Provider shall at all times have the status of an independent contractor

without the right or authority to impose tort, contractual or any other liability on the Agency or the County.

XVIII. DISCLOSURE

The Provider hereby covenants that it has disclosed any information that it possesses about any business relationship or financial interest that said Provider has with a county employee, employee's business, or any business relationship or financial interest that a county employee has with the Provider or in the Provider's business.

XIX. INSURANCE

The Provider shall at times during the terms of this contract subscribe to and comply with the Worker's Compensation Laws of the State of Ohio and pay such premiums as may be required there-under, and shall save the County harmless from any and all liability arising from or under said act. The Provider shall also furnish prior to the onset and delivery of said services and at such other times as may be requested, a copy of the official certificate or receipt showing the payments hereinbefore referenced.

XX. CONFIDENTIALITY

The Provider agrees to comply with all federal and state laws applicable to the Agency and/or consumers of the Agency concerning the confidentiality of the Agency's consumers. The Provider understands that any access to the identities of any Agency consumers shall only be as necessary for the purpose of performing its responsibilities under this contract. The Provider agrees that the use or disclosure of information concerning the Agency consumers for any purpose not directly related to the administration of this contract is prohibited.

Client Data Confidentiality

By receiving client data in any form whatsoever from the Agency all parties to this agreement shall protect the confidentiality of said data as per the requirements of Ohio Administrative Code 5101:1-1-03, the regulations promulgated by the United States Department of Health and Human Services, the provisions of HIPAA, specifically 45 CFR 164.501, any amendments thereto, and as detailed below.

Definition- "Client data" is any information that is, or can be, related to an individual client including all personal health information (PHI) as defined at 45 CFR 164.501.

Permitted Uses and Disclosures- The Provider and its agents and subcontractors shall not use or disclose client data except as specifically stated in this agreement.

Safeguards- The Provider shall use appropriate safeguards to protect against use or disclosure not provided for in this agreement.

Reporting of Disclosure- The Provider shall promptly report to the Agency any knowledge of uses or disclosures of client data that are not in accordance with this Agreement or applicable law. In addition, Provider shall mitigate any adverse effects of such a breach to the extent possible.

Agents and Subcontractors – The Provider ensures that all its agents and subcontractors that receive client data from or on behalf of the Agency agree to the same restrictions and conditions that apply to Provider with respect to the use or disclosure of the client data.

Accessibility of Information – The Provider shall make available to the Agency such information as the Agency may require to fulfill the Agency's obligations to provide access to, provide a copy of, and account for disclosures with respect to client data pursuant to HIPAA and regulations promulgated by the United States Department of Health and Human Services, including, but not limited to, 45 CFR 164.154 and 164.528 and any amendments thereto.

Amendments of Information – The Provider shall make client data available to the Agency in order for the Agency to fulfill its obligations pursuant to HIPAA to amend the information and shall, as directed by the Agency, incorporate any amendments into the information held by the Provider and ensure incorporation of any such amendments into information held by its agents or subcontractors.

Disclosure – The Provider shall make available its internal practices, books and records relating to use and disclosure of client data received from the Agency, or created or received by the Provider on behalf of the Agency, to the Agency and to the Secretary of the U.S. Department of Health and Human Services for the purposes of determining the Agency's compliance with HIPAA and the regulations promulgated by the U.S. Department of Health and Human services and any amendments thereto.

Portable Storage Devices- Inclusive to these terms are any form of client data stored on all portable/mobile devices (laptops/notebooks, any form of portable media, electronic communications, hard copy documentation, cell phones and PDAs) and non-portable storage and processing devices. The Provider must exercise appropriate safeguards to ensure confidentiality, integrity, and availability of all client data consistent with the Provider's Business Continuity and/or Risk Management plans and protocol. The Agency must be notified, immediately, upon breach of any portion of this section.

Material Breach - In the event of a material breach of Provider's obligation under this section, the Agency may at its option terminate this agreement. Termination of this agreement shall not effect any provision of this agreement which, by its wording or its nature, is intended to remain effective and to continue to operate in the event of termination.

Return or Destruction of Information - Upon termination of this Agreement, the provider, at the Agency's option, shall return to the Agency, or destroy, all client data

in its possession, and keep no copies of the information except as requested by the Agency or required by law. If Provider or its agents or subcontractors destroy any client data then the Provider will provide to the Agency documentation evidencing such destruction. Any client data maintained by Provider shall continue to be extended the same protections set forth in this Agreement for as long as it is maintained.

XXI. BUSINESS CONTINUITY

The Provider shall maintain and make available to the Agency its Business Continuity Plan (BCP) relating to electronic files, application access, data back-up and computer/system equipment recovery due to a disaster or system failure. The BCP at a minimum should address:

- Recovery and restoration of critical systems and information within a specified time period after a disruption;
- Data Backup and restoration protocols in the event of a data loss;
- Hardware and systems restoration strategies; and
- Full and partial business restoration schedules.

XXII. AUDIT RESPONSIBILITY

The Provider agrees to accept responsibility for receiving, replying to and/or complying with any audit exception or finding resulting from any appropriate federal, state or local audit or review related to the provisions of this contract.

Audits and reviews will be conducted using a "sampling" method. Depending on the type of audit or review conducted, the areas to be reviewed using the sample method may include but are not limited to; months, expenses, total units, and billable units. If errors are found, the error rate of the sample period may be applied to the entire audit period or other appropriate methods may be utilized.

The Provider agrees to repay the Agency amounts due that result from any audit or review finding with monetary implications contained in an audit or review conducted by any appropriate federal, state or local government entity.

The Provider agrees to repay the Agency the full amount of payment received for duplicate billings, erroneous billings, or false or deceptive claims.

When an overpayment is identified and the overpayment cannot be repaid in one month, the Provider will be required and hereby agrees to sign a Repayment of Funds Agreement. The Provider recognizes and agrees that the Agency may withhold any money due and recover through any appropriate method any money erroneously paid under this contract if evidence exists of less than full compliance with this contract. If payments are not made according to the agreed upon terms, future checks will be held until the repayment of funds is current. Checks held more than 60 days will be canceled and will not be reissued.

The Agency also reserves the right to not increase the rate(s) of payment or the overall contract amount for services purchased under this contract if there is any outstanding or unresolved issue related to an audit finding.

The Agency may allow a change in the terms of the Repayment of Funds Agreement. Any change will require a formal amendment to the Repayment of Funds Agreement that must be signed by all parties. An amendment to the Repayment of Funds Agreement may also be processed if any additional changes or issues develop or need to be addressed.

Other Deliverables

Within 30 days of receipt, the Provider agrees to give the Agency a copy of Provider's annual independent audit report and any associated management letters.

XXIII. WARRANTY

The Provider warrants that its services and/or goods shall be performed and/or provided in a professional manner in accordance with applicable professional standards.

XXIV. ACTS OF GOD

If by reason of Acts of God, the parties are unable in whole or in part to act in accordance with this contract, the parties shall not be deemed in default during the continuance of such inability provided, however, that Provider shall only be entitled to the benefit of this paragraph for fourteen (14) days if the event of force majeure does not affect the Agency's property or employees which are necessary to the Provider's ability to perform.

The term "Acts of God" as used herein shall mean without limitation: strikes or lockout; acts of public enemies; insurrections; riots; epidemics; lightening; earthquakes; fire; storms; flood; washouts; droughts; arrests; restraint of government and people; civil disturbances; and explosions.

The Provider shall, however, remedy with all reasonable dispatch any such cause to the extent within its reasonable control that which prevents the Provider from carrying out its obligations contained herein.

XXV. CHILD SUPPORT ENFORCEMENT

The Provider agrees to cooperate with the Agency, ODJFS and any other Child Support Enforcement Agency in ensuring that the Provider's employees meet child support obligations established under state law. Further, by executing this contract, the Provider certifies present and future compliance with any order for the withholding of child support payments that are issued pursuant to Sections 3113.21 and 3113.214 of the Ohio Revised Code.

XXVI. PUBLIC RECORDS

Subject to Article XXI Confidentiality, this contract is a matter of public record under the laws of the State of Ohio. The Provider agrees to make copies of this contract promptly available to any requesting party. Upon request made pursuant to Ohio Law, the Agency shall make available the contract and all public records generated as a result of this contract.

By entering into this contract, the Provider acknowledges and understands that records maintained by the Provider pursuant to this contract may be deemed public record and subject to disclosure under Ohio law. Provider shall comply with the Ohio public records law.

XXVII. DRUG-FREE WORKPLACE

The Provider certifies and affirms that the Provider will comply with all applicable state and federal laws regarding a drug-free workplace. The Provider will make a good faith effort to ensure that all employees performing duties or responsibilities under this contract, while working on state, county or private property, will not purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

XXVIII. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PARTICIPANTS

Pursuant to Chapter 5107 of the Ohio Revised Code and Prevention, Retention, and Contingency Program established under Chapter 5108 of the Revised Code, the Provider agrees to not discriminate in hiring and promoting against applicants for and participants in the Ohio Works Program. The Provider also agrees to include such provision in any such contract, subcontract, grant or procedure with any other party, which will be providing services, whether directly or indirectly, to the Agency's consumers.

XXIX. AMENDMENTS

All amendments shall be in writing and executed by both parties. All amendments and changes shall be dated and become part of the original contract.

XXX. WAIVER

Any waiver by either party of any provision or condition of this contract shall not be construed or deemed to be a waiver of any other provision or condition of this contract, nor a waiver of a subsequent breach of the same provision or condition.

XXXI. PROVIDER SOLICITATION OF AGENCY EMPLOYEES

The Provider warrants that for one (1) calendar year from the beginning date of this contract with the Agency, the Provider and its employees will not solicit the Agency's employees to work for the Provider. The term Provider includes all staff personnel.

XXXII. MAINTENANCE OF SERVICE

The Provider certifies the services being reimbursed are not available from the Provider on a non-reimbursable basis or for less than the unit cost and that the level of service existing prior to the contract shall be maintained. The Provider further certifies that Federal funds will not be used to supplant non-federal funds for the same service.

XXXIII. PROPERTY OF EMPLOYMENT & FAMILY SERVICES

Any item produced under this contract or with funds provided under this contract, including any documents, data, photographs and negatives, electronic reports/records, or other media, are the property of Employment & Family Services, which has an unrestricted right to reproduce, distribute, modify, maintain, and use the deliverables. The Provider will not obtain copyright, patent, or other proprietary protection for the deliverables. The Provider will not include in any deliverable any copyrighted matter in the manner provided in this contract. The Provider agrees the deliverables will be made freely available to the general public unless the Agency determines, pursuant to state or federal law, that such materials are confidential.

XXXIV. DEBARMENT AND SUSPENSION

For contracts valued at greater than \$100,000.00, the Agency may not contract with Providers on the non-procurement portion of the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs: (hereinafter known as List) in accordance with Executive Order 12549 and 12689. By signing this contract, the Provider warrants that the Provider will immediately notify the Agency if the Provider is added to the List at any time during the life of this contract. Upon receipt of notice, the Agency will issue a termination notice in accordance with the terms of the contract. If the Provider fails to notify the Agency, then the Agency reserves the right to immediately suspend payment and terminate the contract.

XXXV. ELECTRONIC SIGNATURES

By entering into this Agreement Case Western Reserve University agrees on behalf of 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 that


signature was manually affixed to a paper version of the document. Case Western Reserve University also agrees on behalf of the aforementioned entities and persons, to be bound by the provisions of the 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 parties hereto have executed this Agreement as of the date below written.

COUNTY OF CUYAHOGA, OHIO

BY: _____
Edward FitzGerald, County Executive

CASE WESTERN RESERVE UNIVERSITY

BY: 
DIANE L. DOMANOVICS
Assistant Vice President for Research
Sponsored Projects Administration
Case Western Reserve University

11/10/10
Date