

CONTRACT

BY AND BETWEEN

THE COUNTY OF CUYAHOGA
AND
THE EDUCATIONAL SERVICE CENTER OF CUYAHOGA COUNTY

THIS CONTRACT made and entered into this _____ day of _____, 2011 by and between the County of Cuyahoga, Ohio (the "County"), on behalf of the Office of Early Childhood ("OEC") and the **Educational Service Center of Cuyahoga County**, a political subdivision of the State of Ohio with principal offices located at 5811 Canal Road, Valley View, Ohio 44125, ("ESC") on behalf of Help Me Grow of Cuyahoga County ("HMG").

WHEREAS, OEC is Cuyahoga County's public/private partnership that aims to create a comprehensive system of care for children prenatal through five, through the goals of effective parents and families; safe and healthy children; preparing children for school; and a community committed to early childhood for the Invest in Children Program, and

WHEREAS, HMG is the program responsible for administering and coordinating services to families with children prenatal to three who meet the eligibility criteria as determined by the Ohio Department of Health (ODH). This includes families with children who are suspected or diagnosed with developmental delay or disability, and

WHEREAS, ESC is responsible for the delivery of services and corresponding fiscal activities relative to Help Me Grow Programs. These programs shall include, but are not limited to, At Risk, Part C and HMG Part C American Recovery and Reinvestment Act (ARRA) of 2009, and CAPTA Required Services.

NOW, THEREFORE, all parties agree as follows:

I. SCOPE OF SERVICE:

Under the terms of this Agreement and all applicable statutory requirements of the HMG Program including all federal, state and county laws governing the use of HMG Part C ARRA funding, ESC will provide the following:

A. General

1. Serve as the administrative agent for HMG. In this capacity, ESC shall receive, disburse and monitor funds, and provide administrative services for an amount specified by OEC (as found in "Exhibit A") for expenses associated with the provision of HMG Part C ARRA services in accordance with state, federal, local law and directives, policies and practices of ESC, the Ohio Department of Health (ODH), the Family and Children First Council (FCFC), and OEC.
2. Provide fiscal monitoring for HMG Part C ARRA services to ensure applicable fiscal requirements are being met.
3. Enter into contracts with HMG-approved community-based providers to deliver HMG Part C ARRA services and procurement of other goods and services. The funding streams, which will be used to finance HMG Part C ARRA operational and client-related services against the terms and conditions of this contract shall include, but are not limited to, ODH's allocation of HMG Part C ARRA of 2009 Funding also known as federal stimulus funds.
4. Receive and review invoices, and make payments to contract provider agencies and

other vendors for HMG Part C ARRA service-related activities and administrative expenses.

5. Invoice OEC for all authorized expenses and reimbursement of services rendered on a monthly basis on or before the 15th of each month as invoiced and reimbursed to HMG contract provider agencies based on eligibility determinations by HMG.
6. Prepare and submit monthly fiscal reports to OEC and HMG on or before the 15th of each month relative to HMG Part C ARRA services as well as other reports as needed/requested.
7. Prepare and submit to OEC on a quarterly basis or as needed, a consolidated spending forecast for all HMG programs including HMG Part C ARRA.
8. Provide to OEC other fiscal and budgetary documents, including but not limited to, the State Fiscal Year HMG Integrated Budget.
9. Assist in convening and participating in monthly HMG finance committee meetings with HMG, ESC, FCFC, MRDD and OEC staff, and others as determined necessary.
10. Participate in financial/program audits performed by local, state and federal governments.
11. Participate in OEC's evaluation of the Invest in Children program.
12. Support HMG in meeting its scope of services as outlined in this contract.
13. Review, approve and hire personnel, abiding by ESC's Personnel Policies, in a manner that supports the administrative structure necessary to effectively carryout HMG Part C ARRA services.
14. Submit all HMG Part C ARRA financial and full time equivalent (FTE) reports to the ODH as required.
15. Assure HMG operates under acceptable business practices as set forth in ESC's policy and procedures, specifically as delineated in items B through G below.

B. PROGRAM ADMINISTRATION

1. Administer and provide oversight of HMG Part C ARRA services.
2. Comply with all ODH rules and policies that govern the use of HMG Part C ARRA funding as set forth in the Ohio Administration Code and Ohio Revised Code.
3. Comply with all applicable federal and state laws, governing the use of HMG Part C ARRA funding.
4. Comply with all applicable local laws, policies and mandates.
5. Determine eligibility and retain documentation of families and their children to receive Part C services as eligible per ODH and IDEA.
6. Execute and monitor contracts for the provision of HMG Part C ARRA services with community-based agencies and organizations.
7. Implement quality assurance procedures following established protocols for referrals, assessment, service delivery, transition, and other program areas above and beyond state policies and mandates. Develop corrective action plans for under-performing agencies and provide necessary technical assistance to assist HMG Part C ARRA contract provider agencies improve services as needed.
8. Convene and facilitate monthly HMG Personnel and Finance Committee meetings with clearly defined roles and responsibilities for participation and decision making with HMG, ESC, FCFC, MRDD, and OEC staff, and others as determined necessary. Assure that agenda items for these meetings include topics desired by any committee member. Assure that at the end of each meeting there is a clear understanding of tasks, responsibilities and related time frames that must be adhered to prior to the next meeting.
9. Assess training and technical assistance needs of HMG Part C ARRA contract providers that promote the continuous improvement of services and identify and/or

- provide for such needs.
10. Participate on OEC's Executive Committee, HMG Personnel and Finance Committee, and as needed, ad hoc committees.

C. PART C SERVICE COORDINATION

1. Participate on OEC's Ongoing Services Strategy Sub-Committee and assist in carrying-out and monitoring strategies related to the work plan.
2. Identify potential reasons families never receive a home visit or disengage early in the Part C program and identify new strategies or adaptations to current strategies in an effort to improve engagement rates.
3. Continue to conduct a variety of Child Find activities to assure that children who have or are at-risk of a developmental delay or disability are identified as early as possible and receive appropriate and timely Part C services and service coordination.
4. Convene and/or participate on committees/work groups that address the transition needs of children aging out of the HMG program.
5. Participate in County pilots/demonstration projects that address the transition needs of children aging out of the HMG program.
6. Conduct the aforementioned bullets contained (in section E) as feasible within the constraints of resources and state mandates.

D. SYSTEM COORDINATION & CAPTA REQUIRED SERVICES

1. Collaborate with the Department of Children and Family Services to execute a Memorandum of Understanding (MOU) that outlines the roles and responsibilities of HMG in providing CAPTA-required services for children under age three involved in a substantiated case of abuse or neglect.
2. Develop and refine protocols/procedures that help to ensure that children who are CAPTA-eligible receive the entitled services in a timely and quality manner.
3. Assist in providing all identified CAPTA-eligible children with developmental screening and, as required, Part C evaluations to determine eligibility for ongoing Part C evaluations.
4. Participate on OEC's CAN Workgroup (Child Abuse and Neglect) as an opportunity to discuss topics and issues related to the prevention and reduction of abuse and neglect to children under three years of age.
5. Establish and maintain effective relationships with public systems to better support and provide for the diverse needs of families with young children.

E. PERFORMANCE INDICATORS & REPORTING

1. Capture data that reflects the mutually agreed upon performance indicators that reflect progress towards agreed upon service goals for all program strategies set forth in this agreement.
2. Report this information to OEC on a quarterly basis, within eight (8) weeks from the last day of the quarter.
3. Renegotiate performance indicators, as needed, with the implementation of Early Track 3.0 as the sole and decentralized data system for HMG services and maximize reliability and validity of data.
4. Continue to identify and address barriers to capturing and/or reporting performance indicators and identify and implement strategies to overcome such barriers.
5. Prepare and provide written program reports, which may include qualitative data, as requested by OEC.
6. Perform other statistical reporting and/or analysis as requested by OEC.
7. Attend quarterly meetings with OEC staff to assess performance indicators, make

- revisions to indicators, and discuss other items relevant to reporting requirements.
8. Share copies of State-mandated and/or State-generated reports that relate to the provision of HMG services including HMG Part C ARRA with OEC staff.

F. EVALUATION

1. Participate in OEC's evaluation of the Invest in Children program as jointly agreed upon in the OEC evaluation plan.
2. Assist in developing evaluation questions related to OEC strategies and in providing constructive feedback on evaluation design and methodology.
3. Execute and/or maintain a current data sharing agreement with OEC's evaluator, Case Western Reserve University (CWRU). Provide timely data submissions to CWRU.
4. Assist evaluators in identifying and recruiting HMG families to participate in OEC's evaluations.

G. FAMILY CHILDREN FIRST COUNCIL

1. Participate on FCFC by assisting OEC with the early childhood component of Cuyahoga County's Child Well-Being Plan.
2. Assist FCFC in meeting requirements set forth in State legislation and/or requested by State Departments that pertains to the HMG program.
3. Include FCFC representation on pertinent HMG Committees, work groups, etc.

II. TERMS SERVICE

- A. This contract is effective on the 1st day of July 2010 through the 30th day of June 2011 for HMG Part C ARRA services.

III. CONTRACT VALUE

- A. The total value of this contract shall not exceed **\$926,071.00** and payment shall be limited to the aggregated amounts by program as outlined in **Exhibit A** for actual administrative and client services costs, and the fiscal agent fee for HMG Part C ARRA or federal stimulus services.

IV. FUNDING AVAILABILITY

- A. Payments for all services provided in accordance with provisions of this contract are contingent upon the availability of public funds designated for HMG Part C ARRA required services.

V. INVOICING REQUIREMENTS

- A. To facilitate payment of actual costs and charges associated with HMG Part C ARRA services, ESC shall prepare and submit monthly invoices on or before the 15th of each month along with an itemization of actual expenditures along with support documentation as warranted. Services invoiced monthly shall include the fiscal agent fee and administrative costs associated with HMG Part C ARRA services.

VI. DUPLICATE BILLING

- A. ESC certifies that expenses submitted to OEC for HMG Part C ARRA services are not subject to or submitted to any other Federal, State, or Local funders for reimbursement.
- B. ESC further warrants that invoices submitted to OEC for payment for personnel, administrative and purchased services shall be for actual services rendered to eligible individuals and these costs are not duplicate claims made by ESC to any other government entity, municipality or non-profit organization for the same service.

VII. TERMS OF PAYMENT

- A. OEC shall review invoices received from ESC for completeness and accuracy prior to payment for actual expenditures and fiscal agent fee for HMG Part C ARRA services.
- B. If OEC identifies or becomes aware of a discrepancy, potential issue or other concern with an invoice, OEC will notify the ESC of the issue in writing within thirty (30) days or receipt of the invoice in question.
- C. OEC shall process invoices received for payment within 30 calendar days. All invoices shall be mailed to:

Attn: Helen McCoy
Office of Early Childhood
310 West Lakeside Avenue, Suite 565
Cleveland, Ohio 44113

- D. OEC reserves the right to audit and monitor the manner in which the terms and conditions of this contract are being carried out and evaluate through performance audits, the extent to which, the goals and objectives of all contract deliverables are being achieved. Compliance, financial and operational reviews may be performed by OEC and/or upon request by the County or in tandem with another state/federal agency in the event of adverse information pertaining to the operation of ESC. Additional audits or operational reviews may be warranted in the event of outstanding audit exceptions and performance issues due to non-compliance of the terms and conditions of this contract.
- E. OEC reserves the right to withhold payment from ESC in the event invoices for services rendered are not submitted for payment in a timely manner based on the following conditions:
 - 1. Invoices submitted 60 days or more after the end of the service month during the contract period
 - 2. Invoices submitted 60 days or more after the expiration of the contract
 - 3. Invoices submitted in excess of 60 days after the end of the state fiscal period for which OEC may not be able to claim or receive state/federal reimbursement for services rendered by ESC.

VIII. SAFEGUARDING CLIENT INFORMATION

- A. ESC agrees that the use of, or disclosure by any of its employees, agents and subcontractors of any information concerning clients' information for any purpose not directly related with the administration of this contract or carrying out the responsibilities of this agreement is prohibited except upon the written consent of the client or his/her responsible parent or guardian and/or OEC.

IX. SUBCONTRACTING

- A. When deemed necessary to deliver the quantity and quality of services as specified in this contract and/or the Client's Service Plan, ESC may need to subcontract appropriate services. All such subcontracted services shall be in the same form as stipulated in this contract and subject to the same terms, conditions, and covenants contained herein. No such subcontracted services shall in any case release the ESC of its liability under this contract.
- B. ESC is responsible for making direct payment to its subcontractors for such service(s) rendered as part of this agreement. OEC will not be required to make direct payment(s) to nor held liable for any payment not made by the ESC to its subcontractor(s) for services provided under the auspices of this contract.

X. INDEPENDENT CONTRACTOR

- A. ESC, its employees, agents and subcontractors will act in accordance with the terms of this contract in an independent capacity and not as officers, employees, agents or subcontractors of the County.

XI. MAINTAINING PROPER FINANCIAL RECORDS

- A. ESC shall maintain accurate and independent books, records, receipts, vendor invoices, payroll documents, and other accounting transactions in good order, 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 time for inspection, review, or audit by duly authorized federal, state, local governments including OEC. Such records shall also be subject to inspection by the individual or entity selected to perform the audit.

XII. RECORDS RETENTION

- A. ESC shall maintain and preserve all other documentation used in the administration of each program including client case files and other records to support and substantiate services provided and billed to OEC.
- B. All records including financial records, must remain in ESC's possession for a period of three (3) years after the termination date of this contract and/or it will assure the maintenance of and availability of such record for a like period of time if in the possession of a second or third party unless otherwise agreed to by OEC.
- C. If any litigation, claims, negotiations, audits, or other actions involving records have been started before the expiration of the three (3) year period, ESC shall retain records until completion of this action and all issues which arise from it or until the end of the three (3) year period, whichever is later.

XIII. ANNUAL FINANCIAL AUDIT REQUIREMENT

- A. ESC agrees to procure the services of an independent Certified Public Account (CPA) individual or firm to conduct a compliance and financial audit in compliance with Federal OMB Circular A-133 if expenses exceed \$500,000.00 and shall be in compliance with the Government Auditing Standards and Statement on Auditing No. 74 if expenses are under \$500,000.00.
- B. ESC further agrees to submit annually, a copy of its audited financial statement as prepared by an independent CPA at the close of each fiscal year period. A complete copy of the audited financial statement must be submitted to OEC within thirty (30) days after receipt to:

Attn: Helen McCoy
Office of Early Childhood
310 West Lakeside Avenue, Suite 565
Cleveland, Ohio 44113

XIV. COMPLY WITH AUDIT REQUEST

- A. ESC agrees to, if required by the County or any appropriate state or federal agency or duly appointed agent that directly relates to the provisions of this contract on the basis of evidence of misuse of improper accounting of funds or substantial errors in determination of eligibility for which ESC is responsible, to comply with or conduct an independent audit of expenditures or determinations of eligibility or both and to provide copies of the audit to the County or its duly appointed agent.
- B. ESC shall submit to OEC a copy of the final report no later than thirty (30) days after receipt of the final report.

- C. ESC shall perform and/or submit copies of any other audit or quality assurance reports as requested by OEC during this contract period.

XV. RESPONSIBILITY FOR AUDIT EXCEPTIONS

- A. ESC agrees to accept responsibility for receiving, replying to and/or complying with any audit exception(s) noted during a compliance or financial audit performed by OEC or any appropriate state or federal agency or duly appointed agent that directly relates to the provisions of this contract and whereas services were billed and payment made by OEC. Full and timely repayment is expected in the event of an audit and discovery of audit exceptions as described but not limited to the following:

1. Services invoiced and payment received on behalf of individuals and families who are determined ineligible for services rendered that were not in accordance with policies and procedures established by this contract.
2. Services billed and payment made by OEC for services not covered by the contract.
3. Duplicate billings, over billings, erroneous billings, and deceptive claims or falsification.

****As used in this section "deceptive" means knowingly deceiving another or causing another to be deceived, by a fake or misleading representation, by withholding information, by preventing another from acquiring information or by any other act, conduct, or omission which creates, confirms or perpetuates a fake impression in another, including a fake impression as to law, value, state of mind or other objective or subjective fact.**

XVI. GRIEVANCE PROCEDURES

- A. ESC will notify OEC in writing of all grievances and requests for a public hearing initiated by participants of the Part C program, which involve services provided through this contract. ESC shall submit pertinent facts or resolution of grievances/public hearings to OEC within 30 calendar days. The notification should be sent to:

Attn: Robert Staib
Office of Early Childhood
310 West Lakeside Avenue, Suite 565
Cleveland, Ohio 44113

XVII. INDEMNIFICATION

- A. ESC agrees to indemnify and save the County, all of its departments, agents, employees and its' contracted hospitals, harmless from any lawsuits or actions of every nature and description, brought against the County or any and all of its officers, agents, servants, employees and contracted hospitals thereof, for or an account of any injuries or damages received or sustained by a party or parties from any act or actions against ESC, its servants, subcontractors or agents that arise out of the performance of services contemplated by this contract.

XVIII. LIABILITY INSURANCE

- A. ESC agrees to contract for such insurance is reasonably necessary to adequately secure the persons and estates of eligible individuals against reasonable and unforeseeable torts, which would cause injury or death.

XIX. PUBLICITY

- A. In any publicity release or other public reference including a media release, information pamphlets, etc., relative to HMG Part C ARRA services provided under this agreement, it should be clearly stated that said services are a part of and funded by Cuyahoga County.

ESC is also responsible for providing a copy of the publicity release(s) to OEC at the time of each release.

XX. CONTRACT MODIFICATION

- A. This contract represents the entire integrated agreement between the County and ESC and it supersedes all prior negotiations, representations, or agreements, either written or oral. By mutual consent, this contract may be modified whenever such modifications are deemed necessary. Any such modifications shall be reduced to writing and signed by all parties.

XXI. CONTRACT AMENDMENT

- A. This contract may be amended at any time as mutually agreed upon by all parties along with a written amendment signed by all parties and then approved by the County.

XXII. CONTRACT TERMINATION

- A. With at least a thirty (30) calendar day written notice to the other parties, either party may terminate this agreement if the other party does not meet the terms and conditions specified in this contract. OEC and ESC shall agree on a reasonable phase out of the program as a condition of the termination. Contractual obligations of all parties shall cease within thirty (30) calendar days after the notice of termination, except that OEC shall reimburse ESC for services rendered prior to the final date of termination. OEC reserves the rights to terminate this agreement, for any reason as a result of ESC's failure to perform all contract deliverables as specified in this agreement. Under no circumstances shall OEC be responsible for or subject to any type of penalty or interest payment due to cancellation of this contract.

XXIII. VIOLATION OR BREACH OF CONTRACT

- A. This contract is subject to administrative, contractual or legal remedies for violation or breach of contract terms caused by either party.

XXIV. SEVERABILITY

- A. Should any portion of this contract be deemed unenforceable by any administrative, judicial officer or tribunal of competent jurisdiction, the balance of this contract shall remain full force and effect unless revised or terminated pursuant to Article XXII of this contract.

XXV. CONFIDENTIALITY

- A. All parties agree that it shall not use any information, systems, or records made available for any purpose other than to fulfill the obligations specified herein. All parties agree to be bound by the standards of confidentiality that apply to their operations including, but not limited to laws, statutes and regulations of the federal, state or local governments.

XXVI. NON-DISCRIMINATION

- A. ESC and OEC agree that as a condition of this contract, there shall be no discriminatory acts against any client or any employee because of race, color, sex, religion, national origin, handicap, or any other factor as specified in Title VII or the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments including the Americans With Disabilities Act of 1992 as amended (29 U.S.C. 794), and all requirements imposed by the applicable HHS regulations (45 CFR 84) and all guidelines and interpretations issued pursuant thereto.
- B. It is further agreed that ESC will comply with all appropriate federal and state laws

regarding such discrimination and the right to and method of appeal will be made available to all persons receiving services under this contract.

- C. If ESC or its agents or subcontractors is found to be out of compliance with any aspects of this provision, it may be subject to investigation by the County or its duly appointed agent and subject to termination of this contract.

XXVII. GOVERNING LAW

- A. This contract shall be governed by and interpreted in accordance with the laws of the State of Ohio including the Ohio Revised Code (ORC).

XXVIII. APPLICABLE REQUIREMENTS

- A. Applicable requirements includes all of the following to the extent that any of these requirements govern the conduct of the parties to this contract:
1. Applicable law,
 2. Educational Service Center of Cuyahoga County policies and practices,
 3. Directives of Ohio Department of Health,
 4. Directives from the Administrative staff of Help Me Grow,
 5. Directives from the County and/or the Office of Early Childhood,
 6. Directives from the Family & Children First Council.

XXIX. APPLICABLE LAW

- A. Applicable law means those federal, state and local laws and regulations, which govern the conduct of the parties to this contract.

XXX. CAPTIONS

- A. The paragraph captions and headings in this contract are inserted solely for the convenience of the parties and shall not affect the interpretation or construction of this contract or any of the terms of this contract.

XXXI. NOTICES

- A. All notices, requests and approvals shall be made in writing and shall be deemed to have been properly given if and when personally delivered or sent, postage prepaid, by certified mail:

TO: EDUCATIONAL SERVICE CENTER OF CUYAHOGA COUNTY
5811 West Canal Road
Valley View, Ohio 44125

TO: HELP ME GROW OF CUYAHOGA COUNTY
8111 Quincy Avenue, Suite 344
Cleveland, Ohio 44104

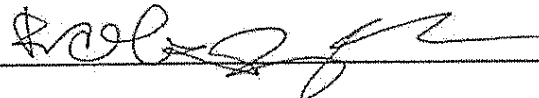
TO: OFFICE OF EARLY CHILDHOOD
310 West Lakeside Avenue, Suite 565
Cleveland, Ohio 44113

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 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.

I ALSO AGREE 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 and ESC have entered into this contract as of the day and year first written above.

EDUCATIONAL SERVICE CENTER OF
CUYAHOGA COUNTY

BY: 

HELP ME GROW OF CUYAHOGA COUNTY

BY: Melissa Manos

COUNTY OF CUYAHOGA, OHIO

BY: X 
Edward FitzGerald, County Executive