

**EMPLOYMENT & FAMILY SERVICES
CUYAHOGA COUNTY, OHIO**

**PURCHASE OF SERVICE CONTRACT
WITH
CLEVELAND FOOD BANK, INC. AND HUNGER NETWORK OF GREATER
CLEVELAND, INC.**

THIS CONTRACT made and entered into this _____ day of _____, 2011 by and among the County of Cuyahoga (the "County"), and Cleveland Food Bank, Inc. ("FB") and the Hunger Network of Greater Cleveland, Inc. ("HN"). FB and HN shall jointly be referred to as "Providers". For purposes of this agreement, all references to "Employment & Family Services" and the "County" shall be used interchangeably.

I. TERM

This Contract will be effective from April 1, 2011 through December 31, 2011 inclusive, unless otherwise terminated or extended by formal amendment.

The Providers understand that funding for the services under this Contract will not be continued after December 31, 2011. Acknowledgement for funding this Contract, the terms outlined herein and its deadline is shown by the initials of each Provider on the line below:

FB ACG _____ FN JL _____

The total amount of this Contract shall not exceed **\$817,500.00** over the life of this contract. All parties to this Contract understand that the sum detailed above will be distributed in accordance with the terms of this Contract, and the provisions outlined in the Memorandum of Understanding (MOU) which is attached and incorporated herein as Exhibit III. If the amount of the invoices exceeds the amount of this Contract, the Providers understand and agree that no additional funds will be paid over and above the total amount of this 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, including the incorporated Exhibits and Attachments, and the understandings set forth in the attached MOU, the Providers agree to provide food for the 35 (thirty-five) Hunger Centers serving needy citizens of Cuyahoga County identified on Attachment 1. ("Hunger Centers"). In accordance with the Statement of Work, attached hereto as Exhibit 1 ("Statement of Work") the parties acknowledge and agree that the number of Hunger Centers may be altered

during the course of this agreement and the addition, or subtraction, of the number of Hunger Centers will in no way alter the terms and conditions of this agreement. The parties acknowledge that the MOU contains commitments from both the FB and the HN that involve on-going operations in the delivery of food to needy Cuyahoga County residents.

The Providers agree to acknowledge the financial support of the County on any publications, promotional brochures, media releases, or other publicity materials produced with resources provided under this Contract. This acknowledgment shall be displayed in a prominent location.

III. RECORDS AND REPORTING

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

IV. BILLING AND PAYMENT

The FB shall submit all invoices following service, with accompanying reports to the County as outlined in the Exhibits and/or Attachments hereto. The County 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 County shall not make invoice payments for any services invoiced later than sixty (60) days after the end of the service month without prior County approval. The County reserves the right to withhold payment until such time as requested and/or required reports are received.

The FB shall indicate on its invoices, the contract number, type of service being rendered, dates service was rendered, and the contract period. The invoice shall show the contract amount minus the invoice amount to reflect the remaining balance on the contract in order to obtain reimbursement.

The FB 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: 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 contract, organization costs, costs related to legal and other proceedings, goodwill, asset valuations resulting from business combinations, and legislative lobbying costs.

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

V. MONITORING, EVALUATION AND QUALITY IMPROVEMENT

The effectiveness of the services provided shall be measured by the achievement of outcomes as identified in the Statement of Work, benchmarks as defined in the contract budget and compliance with the terms and conditions of the contract.

The County will determine the overall performance of contracted services and programs through monthly monitoring activities and the Comprehensive Program Assessment (CPA).

The County's monitoring activities may consist of, but are not limited to:

- Reviewing required reports, as noted herein;
- Reviewing required invoicing documentation and protocol;
- Reviewing monthly activities; and,
- Quality Improvement interventions needed to address and remedy issues discovered through the monitoring activities.

The CPA consists of a series of coordinated activities designed to support, assess and document program implementation, performance and compliance CPA activities may consist of, but are not limited to:

- Provider site visits to observe program activities, participant engagement and facilities' operations;
- Provider presentations and meetings to discuss program features, progress, adjustments or other notable program results;
- Case File Reviews conducted by the County to ensure compliance with documentation of services rendered;
- Surveys and other methods to gauge participant feedback;
- Review of program outcomes; and,
- Program enhancements and updates based on County feedback with regard to services and performance.

Findings based on any of the aforementioned activities will be communicated to the Provider in writing. In the event of negative findings resulting in areas in need of improvement or noncompliance, the Provider shall respond in writing, detailing an improvement plan and/or corrective action plan for each issue.

The CPA and monitoring are on-going and evolving processes. The County reserves the right to modify the processes, activities and products during the

contract period in order to most effectively meet the monitoring and compliance needs of the parties.

Failure to comply with the terms and conditions of this Contract may result in a reduction of funding, recuperation of funds paid, or termination of this Contract, in part or in whole, in accordance with Article XIV, at the discretion of the County. Should the failure to comply be caused solely by the FB or the HN, the responsible party shall be subject to the provisions contained in this paragraph.

VI. 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 services provided hereunder, the services, in whole or in part, may be terminated by the County at the end of the period for which funds are available. The County will notify the Providers 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 County in the event this provision is exercised and the County shall not be obligated or liable for any future payments or for any damages as a result of termination under this section of this Contract.

VII. DUPLICATE BILLING

The FB warrants that claims made to the County for payment for services provided hereunder shall be for actual services rendered to eligible Hunger Centers and are not duplicate claims made to other sources of public or private funds for the same service.

VIII. AVAILABILITY AND RETENTION OF RECORDS

All records relating to the services provided and supporting documentation for invoices submitted to the County by the FB shall be retained and made available by the FB for audit by the County, the County Inspector General, the State of Ohio (including but not limited to ODJFS, the Auditor of State, the State Inspector General, the Attorney General or any other duly appointed State Law Enforcement official) 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 FB shall retain all pertinent records until the audit is concluded and all issues resolved.

IX. CONFLICT OF INTEREST

This Contract in no way precludes, prevents, or restricts any Provider from obtaining and working under an additional contractual arrangement(s) with other parties apart from the County, assuming that the contractual work does not impede the Provider's ability to perform the services required under this Contract. Each 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 will impede its ability to perform the services under this Contract.

Each Provider represents and warrants that there is no financial interest involved on the part of any County officers or employees involved in the development of the specification or the negotiation of this Contract. Each 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 employee or agent of the County will gain financially or receive personal favors as a result of the signing or implementation of this Contract.

Each Provider will report the discovery of any potential conflict of interest to the County. Should a conflict of interest be discovered during the term of this Contract, the County may exercise any right under the Contract, including termination of this Contract in its entirety.

Each Provider hereby covenants that it has disclosed all information that it possesses about any business relationship or financial interest that any Provider has with a County employee, employee's business, or, to the extent possible, any business relationship or financial interest that a County employee has with any Provider or in the Provider's business.

X. ASSIGNMENTS

All parties expressly agree that the Contract shall not be assigned to any other entity without the prior written approval of the County.

No Provider may subcontract any of the services agreed to in this Contract without the express, written consent of the County. All subcontracts are subject to the same terms, conditions and covenants contained within this Contract. Each Provider is responsible for making direct payment to all subcontractors for any and all services provided by such subcontractor.

XI. GOVERNING LAW; VENUE

This Contract and its exhibits and attachments and any modifications, amendments or alterations thereto, shall be governed, construed and enforced under the laws of the State of Ohio in the State Courts located in Cuyahoga County, Ohio.

XII. INTEGRATION AND MODIFICATION

This Contract, and all exhibits and attachments hereto, embodies the entire contractual agreement between all parties. There are no promises, terms, conditions or obligations other than those contained herein. This Contract shall supersede all previous communications, representations or contracts, either written or oral, between the parties to this Contract.

Neither this Contract, nor any of the exhibits and attachments, shall not be modified in any manner except by an instrument, in writing, executed by all the parties to this Contract.

XIII. 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.

XIV. TERMINATION

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

- The County failing to meet the terms and conditions specified in the contract, or
- The County, through action or inaction on the County'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 County and any Provider shall agree on a reasonable phase-out of the program as a condition of the termination.

The parties further agree that should a 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 County shall not be liable to pay to the FB any further Compensation after the date of the FB's inability to complete the terms hereof, or the date of termination of this agreement whichever is later, unless extended upon an agreement of all parties. It is agreed that even if the FB renders services for which payments are due, that no payments will be made after the termination of this Contract, 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 all parties. The County may withhold any compensation to the FB for the purpose of offset until such time as the amount of damages due the County from the FB is agreed upon or otherwise terminated.

XV. COMPLIANCE

Each Provider certifies that it, 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 provisions in the conduct of the work delineated herein.

XVI. NON-DISCRIMINATION

Each Provider certifies that it is an equal opportunity employer and shall remain in compliance with all 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, no Provider will discriminate against any employee, contract worker, or applicant for employment because of race, color, religion, gender, sexual orientation, national origin, ancestry, disability, Vietnam-era status, age, political belief or place of birth. Each Provider will take affirmative action to ensure that during employment, all employees are treated without regard to race, color, religion, gender, 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: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

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

Each 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 any Provider.

XVII. INDEMNIFICATION

The FB agrees to protect, defend, indemnify and hold the County, its 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 FB, negligent or otherwise, and its employees, officers, agents, or independent contractors. The FB agrees to pay all damages, costs and expenses of the County, its officers, agents, employees and the County itself, in defending any action arising out of the aforementioned acts or omissions.

The HN agrees to protect, defend, indemnify and hold the County, its 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 HN, negligent or otherwise, and its employees, officers, agents, or independent contractors. The HN agrees to pay all damages, costs and expenses of the County, its officers, agents, employees and the County itself, in defending any action arising out of the aforementioned acts or omissions.

XVIII. RELATIONSHIP

Nothing in this contract is intended to, or shall be deemed to constitute a partnership, association or joint venture with any Provider in the conduct of the provisions of this contract. Each 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 County.

XIX. INSURANCE

Each Provider shall, 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 and shall hold the County harmless from any and all liability arising from or under said act. Each 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 herein referenced.

Each Provider shall further purchase and maintain during the term of this Contract to cover any loss, liability or damage alleged to have been committed by that Provider, any Provider's employees, agents, servants, volunteers or assigns, Employment Practices Liability insurance coverage, Professional Liability insurance and Commercial General Liability (CGL) insurance coverage, wherein the County is named as an additional insured or co-insured. It is understood that said CGL coverage is to include, but not be limited to standard provisions for sexual and physical abuse, broad form property damage, personal injury, advertising injury, completed operations, product liability and firm damages. Exact copies of Certificates of Liability delineating such coverage shall be deposited with the County prior to commencement of services under this Contract. The amounts of said insurance shall be as follows:

- Commercial General Liability coverage with limits of at least \$1,000,000 per claim and \$3,000,000 annual aggregate;
- Employment Practices Liability coverage with limits of at least \$1,000,000 per claim and \$1,000,000 annual aggregate;
- Professional Liability coverage with limits of at least \$1,000,000 per claim and \$3,000,000 annual aggregate (where applicable).

The policies for each of the requisite insurance coverage specified above shall contain the following provision: The Provider agrees that thirty (30) days prior to cancellation or reduction of the insurance afforded by this policy, with respect to the Contract involved, written notice shall be mailed to: Employment & Family Services, 1641 Payne Avenue, Room 510, Cleveland, Ohio 44114.

Cancellation of insurance will constitute a complete default of this contract, and, if not remedied within thirty (30) days of cancellation, shall result in termination of the contract by the County.

XX CONFIDENTIALITY

Each Provider agrees to comply with all federal and state laws applicable to all parties and Agencies concerning the confidentiality of consumers of all Hunger Centers and related agencies. Each Provider understands that any access to the identities of any Hunger Center's consumers shall only be as necessary for the purpose of performing its responsibilities under this contract. Each Provider agrees that the use or disclosure of information concerning any Hunger Center's consumer for any purpose not directly related to the administration of this contract is prohibited. Should any provider desire to use consumer information or client data for promotional purposes, written approval of the County must be given.

Client Data Confidentiality

By receiving client data in any form, all parties to this contract 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, and amendments thereto, and as detailed herein.

Definition: "Client Data" is any information that is, or can be, related to an individual client including all personal health information (PHI) as defined in 45CFR 164.501. For purposes of this Contract, the "Client Data" includes client names, ages, ages of household members and income declarations.

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

Safeguards: Each Provider shall use appropriate safeguards to protect against use or disclosure not provided in this agreement.

Reporting of Disclosure: Each Provider shall promptly report to the County any knowledge of uses or disclosures of client data that is not in accordance with this agreement or applicable law. In addition, each Provider shall have an affirmative duty to mitigate any adverse effects and/or damages of such a breach to the extent possible.

Agents and Subcontractors—Each Provider ensures that all its agents and subcontractors that receive data from or on behalf of the County, agree to the same restrictions and conditions that apply to each Provider with respect to the use or disclosure of any client data.

Accessibility of Information—Each Provider shall make available to the County such information as the County may require to fulfill its 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 attachments thereto.

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

Disclosure—Each Provider shall make available its internal practices, books and records relating to use and disclosure of client data received from the

County, or created or received by any Provider on behalf of the County, to the County and to the Secretary of the US Department of Health and Human Services for the purposes of determining the County's compliance with HIPAA and the regulations promulgated by the US Department of Health and Human Services and any amendments thereto.

Material Breach—In the event of a material breach of any Provider's obligations under this section, the County may, at its own option, terminate this agreement. Termination of this agreement shall not affect 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 the agreement, any Provider, at the County's option, shall return to the County, or destroy, all client data in its possession, and keep no copies of the information except as requested by the County or as required by law. If any Provider or its agents or subcontractors destroy any client data, the Provider shall provide to the County documentation evidencing such destruction. Any client data maintained by any Provider shall continue to be extended the same protections set forth in the agreement for as long as the agreement is maintained.

XXI. AUDIT RESPONSIBILITY

Audits and Reviews

Each 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.

Each Provider agrees to repay the County 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 governmental entity.

Each Provider agrees to repay the County 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 within thirty (30) days, a Provider will be required and hereby agrees to sign a "Repayment of Funds Agreement". Each Provider recognizes and agrees that the County 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 payments will be held until the repayment of funds due are repaid. Payments held more than sixty (60) days will be cancelled and will not be reissued.

The County also reserves the right to not increase the rate 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 County 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 thirty (30) days of receipt, each Provider agrees to give the County a copy of its annual independent audit report and any associated management letters.

XXII. WARRANTY

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

XXIII. ACTS OF GOD

If, by reasons of Force Majeure, the parties are unable in whole, or in part, to act in accordance with this Contract, such parties shall not be deemed to be in default during the continuance of such inability, provided that a Provider shall only be entitled to the benefit of this paragraph for fourteen (14) days if the event of the Force Majeure does not affect the County's property or employees which are necessary to the Provider's ability to perform.

The term "Force Majeure" as used herein shall mean, without limitation: strikes or lockouts; acts of public enemies; insurrections; riots; epidemics; lightning; earthquakes; fire; storms; flooding; washouts; drought; arrests; restraint of government and people; civil disturbances or unrest; and explosions.

XXIV. CHILD SUPPORT ENFORCEMENT

Each Provider agrees to cooperate with the County, ODJFS and any other Child Support Enforcement Agency in ensuring that all employees of each Provider meet child support obligations established under applicable law. Further, by executing this Contract, each 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.

XXV. PUBLIC RECORDS

Subject to Article XX CONFIDENTIALITY, this Contract is a matter of public record under the laws of the State of Ohio. Each Provider agrees to make copies of this Contract promptly available to any requesting party. Upon request made pursuant to Ohio law, the County shall make available the Contract and all public records generated as a result of this Contract.

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

XXVI. DRUG-FREE WORKPLACE

Each Provider certifies and affirms that it will comply with all applicable state and federal laws regarding a drug-free workplace. Each Provider shall 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 manner.

XXVII. TEMPORARY ASSISTANCE FOR NEEDY CHILDREN (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, each Provider agrees not to discriminate in hiring and promoting against applicants for, and participants in, the Ohio Works First Program. Each 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 County consumers.

XXVIII. AMENDMENTS

All amendments shall be in writing and executed by all parties. All amendments and changes shall be dated and shall become a part of the original Contract.

XXIX. WAIVER

Any waiver by any 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.

XXX. PROVIDER SOLICITATION OF COUNTY EMPLOYEES

Each Provider warrants that for one (1) year from the beginning of this contract with the County, each Provider and their employees will not solicit the County's employees to work for any Provider. The word "Provider" shall include all staff personnel.

XXXI. MAINTENANCE OF SERVICE

Each 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. Each Provider further certifies that Federal funds will not be used to supplant non-federal funds for the same service

XXXII. GRIEVANCE PROCESS

Should any Provider have any grievance, it shall be raised and addressed in accordance with the terms and conditions recited in the MOU which is attached hereto.

XXXIV. 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 the County, which has an unrestricted right to reproduce, distribute, modify, maintain, and use the deliverables. A Provider will not obtain copyright, patent, or other proprietary protection for any deliverables. Each Provider agrees the deliverables will be made freely available to the general public unless the County determines, pursuant to state or federal law, that such materials are confidential.

XXXV DEBARMENT AND SUSPENSION

For contracts valued at greater than \$100,000, the County may not contract with any Provider 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 "the List") in accordance with Executive Order 12549 and 12689. By signing this Contract, each Provider warrants that it will immediately notify the County if it is added to the List at any time during the life of this contract. Upon receipt of notice, the County will issue a termination notice in accordance with the terms of the Contract. If a Provider fails to notify the County, then the County reserves the right to immediately suspend payment and terminate the Contract.

XXXVII. ELECTRONIC SIGNATURES

By entering into this Contract, each Provider agrees on behalf of its respective contracting or subcontractors, sub grantees, agents or assigns, to conduct all aspects of 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. All Providers agree to be bound by the provisions of Chapters 303 and 1306 of the Ohio Revised Code as the chapters pertaining to electronic transactions and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS HEREIO, the parties have executed this contract as of the date below

COUNTY OF CUYAHOGA, OHIO

BY: _____
Edward FitzGerald, County Executive

DATE: _____

BY: An Lu
Cleveland Foodbank, Inc.
DATE: 8/18/11

BY: Daniel Warren
Hunger Network of Greater Cleveland

DATE: 5-29-11

EXHIBIT 1

STATEMENT OF WORK

The County agrees to enter into a contract with the Cleveland Foodbank, Inc. and the Hunger Network of Greater Cleveland, Inc. (jointly referred to as "Providers") for the period of April 1, 2011 through December 31, 2011 to provide food and allocations of funds for 35 Hunger Centers serving needy residents in Cuyahoga County.

34 NCG

The FB distributes food and non-food items and provide equipment and training to more than 600 member programs that include members of the HN. The FB receives food from national manufacturers, local retailers, local food drives, the USDA, and the State of Ohio. Additionally, the FB purchases select food items to ensure availability of certain staple items.

- I. Funds will be provided to the Hunger Centers identified on the attached list (Attachment 1). In order to receive food and funds from the FB, each Hunger Center must continue to be in compliance with all standards of operation, including those outlined in existing agreements as well as the standards outlined by Feeding America and the Ohio Department of Job & Family Services.
- II. The Providers, as specifically delineated, shall furnish the following services:
 - A. The FB shall provide administrative oversight of County funds and use them as pre-paid grants to the Hunger Centers so that each Hunger Center may access any product on an Inventory List on an equal basis with the other member agencies located in the County.
 - B. The FB shall provide a diverse inventory of food with a percentage available that is over 74% highly nutritious.
 - C. Provide on-going evaluation of the success of the distribution delineated in this agreement from all appropriate perspectives. Monthly surveys of agencies and clients will be conducted to ascertain trends and other relevant observations. These surveys and reports may include recommendations with possible avenues for improvement or savings regarding products, processes or other areas of interest that arise from any interaction with consumers.
- III. The FB shall submit monthly allocation reports, as outlined in the MOU, with the specific amounts placed in each account, which shall demonstrate the usage of funds

IV. The FB shall submit to the County quarterly reports detailing survey results, funds spent and people served, including the following:

- A summary of survey results including recommendations and suggested program changes, if applicable;
- The cost per pound of food taken by each Hunger Center during each quarter;
- The total dollars spent by each Hunger Center from the FB;
- The total number of households served by the Hunger Centers;
- The number of clients served by the Hunger Centers, broken down by age as follows:

Children (Birth-17)
Adults (18-59)
Seniors (60+)

The quarterly reports shall be issued at the end of July and October of 2011 and January of 2012. It is understood by all parties to this contract that all of the obligations detailed in this section will not be applicable to each Provider. The information sought will be consistent with the obligations and duties delineated in the attached MOU.

V. Additional requirements of this Contract include:

- A. Periodic meetings of involved agencies and/or stake holders, to answer questions, hear service concerns and address problems or logistic issues that may arise during the term of this contract.
- B. Regular site visits to Hunger Centers by each Provider;
- C. Each Provider agrees that it must maintain an accounting system with supporting fiscal records adequate to enable the County to audit and verify the use of funds and delivery of services.
- D. Submission of a statement of financial position from each Provider, to be submitted by July 31, 2011 and October 31, 2011 and January 31, 2012.

EXHIBIT 2

BUDGET

The County agrees to reimburse FB for the costs described herein to the degree they are determined to be fair and reasonable for the purchase of food for the attached list of Hunger Centers in an amount not to exceed
\$817,500.00

To receive monthly payments, FB must submit an invoice detailing the actual expenses incurred during the billing month with the appropriate supporting documentation.

FB understands that failure to comply with the provisions herein may result in FB refunding amounts received from the County that were in violation of any provisions contained herein.

FB understands that for payment processing, all invoices must be submitted by the 15th of each month to:

Employment & Family Services
1641 Payne Avenue, Room 510
Cleveland, OH 44114
Attn: Larry Ganim
PH: 216-987-8242
Email: ganiml@odjfs.state.oh.us

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") records several common understandings between the Cleveland Foodbank (the "FB") and the Hunger Network of Greater Cleveland (the "HN") regarding the support of the 34 Hunger Centers listed on Exhibit A to this Memorandum. The 34 Hunger Centers have agreed to be bound by the HN's operational and nutritional guidelines by executing an Agreement to become a Participating Member of the HN (the "Hunger Centers"). This Memorandum also records several common understandings and strategies for maximizing the utilization of Cuyahoga County (the "County") funds available for emergency food programs. This record of common understandings is not intended to be a legally binding agreement and does not create legally enforceable obligations on either party.

I. INTRODUCTION

The County has asked the HN and the FB to work together towards the common goal of providing food to the people of the County in the best manner possible. The County provides approximately \$1.1 Million Dollars ("County Dollars") annually to purchase food to feed hungry people in the County. While the FB and HN have different strategies as to how best to provide food to hungry people in the County, both agree that working together to achieve a goal of better provision of food to the people of the County is vital. Accordingly, the FB and HN seek to find an arrangement that works for both organizations and ultimately works to provide food to the people of the County in the best manner possible.

II. NEAR TERM UNDERSTANDINGS

A County Funding and Payment System for Food

- 1 At all stages of emergency food distribution, all parties understand and accept that obtaining more information relevant to the process is a desirable, collaborative approach. Beginning April 1, 2011, FB shall directly receive the County Dollars from the County for distribution to the people of the County through the Hunger Centers. The acquisition and distribution of the food products to appropriate Hunger Centers in Cuyahoga County will continue as has been performed in the past and all parties are committed to working together to provide and distribute food to underserved community populations in Cuyahoga County in the future. The allocation of County funds for the month of April 2011 is set forth on Exhibit A. The parties agree that the appropriate allocation of County Dollars is essential to the maintenance of the safety net for distribution of emergency food for Cuyahoga County's underserved populations. To determine the optimal appropriations for the Hunger Centers, HN will continue its past practice of considering all pertinent information, from all sources, in submitting the allocation figures. HN shall submit the allocation for May of 2011 by April 15, 2011. To adapt to changes in the needs of the Hunger Centers, the parties agree that allocations will be reviewed monthly. Any issues, disputes or concerns about the allocation will be addressed in the manner outlined in Section II(A)(5).
- 2 All billing statements and/or invoices will be addressed by the appropriate party within thirty (30) days of the issuance of the billing statement and/or

invoice. Each party understands and acknowledges that it shall be responsible for any and all expenses and liabilities it may incur that are beyond the allocations of the County. All parties understand and accept that Generally Accepted Accounting Principles will be followed by both FB and HN and all parties must comply with all applicable laws and corporate provisions.

3. Each party agrees that it will provide such supporting documentation in support of all billing statements and/or invoices as may be reasonably requested by the other party.
4. FB and HN agree that they will each continue their past and current operations and are committed to working in a collaborative fashion to serve needy Cuyahoga County consumers.
5. FB and HN agree that should any dispute occur between the parties regarding any issue associated with any portion of this Memorandum, including but not limited to, the distribution of food products to the affected Hunger Centers, the types and nutritional values of the foods distributed, the timing of the distribution of food products, the geographic distribution of food products, or any related dispute, any party may contact James P Boyle, Special Assistant to County Executive Edward FitzGerald and fully explain the nature of the disagreement. Within twenty-four (24) hours of any such notification, Boyle will contact the Executive Director of the non-complaining entity to discuss the matter and seek an immediate

resolution. The parties agree that operations will continue while the issue is being addressed.

B. Availability of Nutritious Food

1. Exhibit B to this Memorandum is a description of the Categories of products currently used by the Hunger Centers to comprise a nutritionally complete offering of emergency meals to their clients (the "Packing List"). An example of a "Category" is "Vegetable, Canned Fruit, Hot Cereal, etc" as listed on the Packing List. A Category is described under the "Menu" headings on the Packing List. The products described on Exhibit C (the "Substitution List") attached to this Memorandum are permitted as substitutions for products on the Packing List. The Substitution List, together with the Packing List, is hereinafter referred to as the "Packing List Products".
2. The FB commits to using its best efforts to having available for the Hunger Centers to order each Category of product included in the Packing List Products so that the Hunger Centers may source all of their requirements for nutritionally complete meals.
3. To measure performance against the County's goals, the following metrics will be used to the extent possible:
 - (a) Frequency and quantity of product availability of Packing List Products
 - (b) Number of pounds taken from the FB by each Hunger Center
 - (c) Total dollars spent by each Hunger Center at the FB

(d) Cost per pound of food taken for each Hunger Center, and for the Hunger Centers in the aggregate, compared with the target average price per pound of 17 cents

(e) The number of clients served by the Hunger Centers broken down by age as follows:

Children: birth - 17
Adults: 18 - 59
Seniors: 60 and older

(f) Total number of households served by the Hunger Centers

4 The parties agree that variability issues, if any, will be addressed between the parties, on a need basis

III. LONGER TERM UNDERSTANDINGS

A. Identifying Other Improvements in the Emergency Food Distribution System

- 1 Upon execution of this Memorandum, the parties agree to continue to work together, in good faith, to identify other opportunities for improvement to the emergency food distribution system
- 2 To achieve this goal, the parties agree to meet again no later than June 1, 2011 (the parties may meet sooner) to discuss other opportunities for improvement to the emergency food distribution system. Such meeting will include the participation of a representative of the County
- 3 In preparation for these discussions, each organization will prepare documents answering the following questions:

- (a) What does the organization feel today is its role in the emergency food distribution system?
- (b) What does the organization feel should be its role in the emergency food distribution system?
- (c) What initiatives of the organization would the organization like support from the other organization in its efforts to improve the emergency food distribution system?
- (d) What does the organization feel are its core competencies in the emergency food distribution network?
- (e) What areas of improvement of the other organization would the organization like to see to assist it in its mission to improve the emergency food distribution system?

4. The parties agree to provide three (3) other times and dates approximately three (3) weeks after the initial meeting to continue discussions regarding improving the emergency food distribution system in the County. During the remainder of 2011, the parties will endeavor to meet at least monthly to discuss improvements to the emergency food distribution system. Such meeting will include the participation of a representative of the County

IV. MUTUAL NON-DISPARAGEMENT CLAUSE

The Parties understand and acknowledge that FB, HN and the County share a common goal of providing nutritional food to Cuyahoga County residents in the best manner possible. While each agency may have different visions concerning specific logistical issues, the paramount principle of fighting hunger is shared by all

While working together to provide food products to the Hunger Centers, all parties agree to not make any statements, written or verbal, or cause or encourage others to make any statements, written or verbal, that defames, disparages or in any way criticizes this Memorandum, the arrangements contemplated by this Memorandum or the conduct of any party, employee, Board Member or director of Cuyahoga County or any party to this Memorandum in connection with this Memorandum or the arrangements contemplated by this Memorandum. Both the FB and the HN acknowledge and agree that this prohibition extends to statements, written or verbal, made to anyone outside of their respective organizations, including but not limited to, the news media, donors, potential donors, volunteers other than board members, industry representatives, other food distribution enterprises, strategic partners, vendors, Cuyahoga County officials and employees, or any employee, volunteer or client at any of the Hunger Centers.

Should any alleged breach of this provision take place, each party understands that it will follow the notification process outlined in Section II(A)(5), above.

V. CONCLUSION

The HN and the FB thank the County for its commitment to combating hunger in our community and for its expenditure of County Dollars to address this serious issue.

By their signature below, each party endorses the common understandings set forth in this Memorandum.

HUNGER NETWORK OF GREATER
CLEVELAND

By: Benjamin F. Rothmeyer

Its: President of Board

THE CLEVELAND FOODBANK

By:

Wayne R. Hill

Its:

BOARD CHAIR

EXHIBIT A

	Hunger Center	Centers Monthly Pre-paid funding for food purchase - April 2011
1	Avon Avenue Baptist Church	\$ 1,500 00
2	Bay Food Ministry	\$ 400 00
3	Bountiful Basement	\$ 4,600 00
4	Bread Basket	\$ 1,200 00
5	Bread of Life	\$ 2,000 00
6	Broadway Hunger Center	\$ 2,500 00
7	Brookside Hunger Center	\$ 3,300 00
8	CACC #2 - Nottingham	\$ 500 00
9	Calvary Lutheran Church	\$ 3,000 00
10	Collinwood Area Church Council	\$ 2,000 00
11	Community Corner Hunger Center	\$ 4,800 00
12	Corinthian Baptist Church	\$ 2,000 00
13	Cory Hunger Center	\$ 6,000 00
14	Euclid Hunger Task Force	\$ 3,700 00
15	Friendly Inn Settlement	\$ 1,300 00
16	Garden Valley EFB	\$ 3,000 00
17	Harvard Community Service	\$ 3,450 00
18	Heights Emergency Food Center	\$ 2,800 00
19	Lakewood Christian Service	\$ 4,000 00
20	Lane Central Hunger Center	\$ 2,000 00
21	Lee Seville/Miles Hunger	\$ 3,500 00
22	Maple Heights Pantry	\$ 2,500 00
23	Mount Haven Baptist Church	\$ 2,800 00
24	Near West Food & Family	\$ 350 00
25	New Cleveland Foodbasket	\$ -
26	New Covenant Lutheran Church	\$ 6,000 00
27	Parma Hunger Center	\$ 4,000 00
28	Redeemer Crisis Center	\$ 3,500 00
29	SCAN Hunger Center Pantry	\$ 700 00
30	Shaker Heights Community	\$ 1,000 00
31	Southeast Clergy Council	\$ 2,400 00
32	St. John Karty	\$ 700 00
33	St. Mark's Baptist Church	\$ 3,500 00
34	Triedstone Community Care	\$ 2,500 00
35	Wade Park Cluster-Churches	\$ 2,500.00
	Monthly Total - April 2011	\$ 90,000 00

Exhibit B

CURRENT PACKING LIST

Breakfast Menu
(Choose One)

Juice
Cold Cereal
Milk
Bread

Hot Cereal
Milk
Juice
Bread

Eggs*
Sausage
Bread
Juice

Lunch Menu
(Choose Three)

Peanut Butter
Jelly
Soup/Spag. O's

Mac & Cheese
Vegetable

Tuna Fish
Vegetable
Canned Fruit

Dinner Menu
(Choose Four)

Beef Stew
Rice

Spaghetti
Spaghetti Sauce
Green Vegetable
Canned Fruit

Tuna Fish
Tuna Helper
Canned Fruit

Beans
Rice
Canned Vegetable

Personal Hygiene Items

Toilet Tissue
Bar Soap
Diapers

Hamburger
Hamburger Helper
Canned Vegetable

Chicken
Mac & Cheese
Canned Vegetable

Sliced Beef w/Gravy
Mashed Potatoes
Canned Vegetable

*when available at no cost

Exhibit C

SUBSTITUTIONS

Canned Fruit

Fresh Fruit - Apples, Oranges, Pears

Fruit Juice

Fresh Fruit with Vitamin C

Soup

Spaghetti O's, Chili, Canned Ravioli, any Canned Pasta Item

Tuna Fish

Salmon, Mackerel

Rice

Egg Noodles, Mashed Potatoes, Fresh Potatoes

Hamburger

Ground Turkey, Pork Patties, Chicken, Sliced Beef w/Gravy

Canned Vegetables

Green Beans, Leafy Green Vegetables, Carrots, Corn, Peas, Beets, Mixed Vegetables, Lima Beans and Fresh Vegetables