

CONTRACT

BY AND BETWEEN

CUYAHOGA COUNTY

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 government entity with principal offices located at 5811 Canal Road, Valley View, Ohio 44125, ("**ESC**") The purpose of this contract is to provide services to children with a suspected or diagnosed developmental disability through the Federal Part C Early Intervention Services Program.

WHEREAS, Cuyahoga County has determined that it requires the services listed below for the Office of Early Childhood's Invest in Children Program as aligned to Goal 1 (Effective Parents and Families) of its strategic plan; and finds it necessary to enter in to a contract with the **ESC** for the amount not to exceed **\$2,375,034.00**; and

WHEREAS, the Office of Early Childhood administers Invest in Children, 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; and OEC desires the services of the Educational Service Center and Help Me Grow to provide Part C Early Intervention services to children suspected of having or diagnosed with a developmental disability in Cuyahoga County; and

WHEREAS, Help Me Grow of Cuyahoga County (hereinafter referred to as **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, as the fiscal agent, for **HMG** for the delivery of services and corresponding fiscal activities relative to Federal Part C Early Intervention Program.

WHEREAS, Subject to the terms and conditions set forth in this contract, this contract shall extend from **July 1, 2011 through June 30, 2012**, unless terminated in accordance with procedures enumerated in **Section XXII** below, "**CONTRACT TERMINATION**".

NOW, THEREFORE, all parties agree as follows:

I. SCOPE OF SERVICE:

Under the terms of this Agreement all applicable statutory requirements of Help Me Grow Programs, the county's laws, the State of Ohio's guidelines and Federal governments guidelines governing the **HMG** program specifically the Federal Part C Early Intervention Program **ESC** will provide the following:

A. General

- a Serve as the administrative agent for Help Me Grow of Cuyahoga County. 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 Part C Early Intervention Program required 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

- b. Provide fiscal monitoring for HMG services to ensure applicable fiscal requirements are being met
- c. Enter into contracts with HMG-approved community-based providers to deliver HMG services and programs.
- d. Receive and review invoices and make payments to contracted provider agencies for service-related activities.
- e. Invoice OEC for 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 contracted provider agencies based on eligibility determinations by HMG.
- f. Prepare and submit monthly fiscal reports to OEC and HMG, on or before the 15th of each month, relative to HMG services and programs as well as other reports needed/requested.
- g. Prepare and submit to OEC on a quarterly basis, a consolidated financial report of all HMG programs.
- h. Assist in convening and participating in monthly HMG finance committee meetings with HMG, FCFC, MRDD and OEC staff, and others as determined necessary.
- i. Participate in financial/program audits performed by local, state and federal governments.
- j. Participate in OEC's evaluation of the Invest in Children program
- k. Support HMG in meeting its scope of services as outlined in this contract.
- l. Review, approve and hire personnel, abiding by ESC's Personnel Policies, in a manner that supports the administrative structure necessary to effectively carry out HMG programs and services
- m. Assure HMG operates under acceptable business practices as set forth in policy and procedure by ESC, specifically as delineated in items B through E below.

B. PROGRAM ADMINISTRATION

- a. Administer and provide oversight of HMG's Federal Part C Early Intervention programs for families with children ages birth to three with a suspected or diagnosed developmental disability
- b. Comply with all ODH rules and policies that govern the HMG program as set forth in the Ohio Administration Code and Ohio Revised Code.
- c. Comply with all applicable federal laws, including Part C of the Individuals with Disabilities Education Act (IDEA).
- d. Determine eligibility and retain documentation of families and their children to receive Part C services as eligible per ODH and IDEA
- e. Comply with all applicable local laws, policies and mandates.
- f. Utilize a competitive Request for Proposal (RFP) process for obtaining HMG service providers and develop and utilize an RFP review process that employs an unbiased and consistent method for evaluating proposals and inclusion of diverse representation on the review team
- g. Assure all RFP announcements are disseminated to the public at-large using a variety of formats (i.e. newspaper, Internet, etc.).
- h. Execute and monitor contracts for the provision of HMG services with community-based agencies and organizations.
- i. 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 contracted HMG provider agencies improve services.

- j. 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.
- k. Assess training and technical assistance needs of contracted HMG providers that promote the continuous improvement of services and programs and identify and/or provide for such needs.
- l. Participate on OEC's Systems Committee, HMG Personnel and Finance Committee, and as needed, ad hoc committees.
- m. Ensure that the Federal Part C funds are used in conjunction with other state and local funds in carrying out Help Me Grow program activities. Funds are to be used to implement and maintain a coordinated, community-based system which includes the following:
 - a. Central Intake and Referral
 - b. Child Find
 - c. Evaluation and Assessment
 - d. Service Coordination
 - e. Individualized Family Service Plan
 - f. Procedural Safeguards
- n. Establish and maintain effective relationships with public systems to better support and provide for the diverse needs of families with young children.

C. PERFORMANCE INDICATORS & REPORTING

- a. 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.
- b. Report this information to OEC on a quarterly basis, within ten (10) weeks from the last day of the quarter.
- c. Renegotiate performance indicators, as needed, with the implementation of Early Track as the sole and decentralized data system for HMG services and maximize reliability and validity of data.
- d. Continue to identify and address barriers to capturing and/or reporting performance indicators and identify and implement strategies to overcome such barriers.
- e. Prepare and provide written program reports, which may include qualitative data, as requested by OEC.
- f. Perform other statistical reporting and/or analysis as requested by OEC.
- g. Attend regular meetings with OEC staff to assess performance indicators, make revisions to indicators, and discuss other items relevant to reporting requirements.
- h. Share copies of State-mandated and/or State-generated reports that relate to the provision of HMG services with OEC staff.
- i. The following indicators must be reported to OEC on annual basis, according to ODH guidelines, and are subject to change in accordance with ODH reporting requirements and guidelines:
 - 100%** of infants and toddlers with IFSPs who receive early intervention (EI) services will receive them within 30 days of the service requested on the IFSP.
 - 83 %** of infants and toddlers who receive EI services will receive these services

primarily in the home or in programs for typically developing children.

93% of families participating in Part C will report that EI services helped the family know their rights.

93% of families participating in Part C will report that EI services helped the family communicate their child(ren)'s needs.

93% of families participating in Part C will report that EI services helped the family help their children develop and learn.

100% of infants and toddlers with IFSPs will have evaluation and assessment and initial IFSP meeting conducted within 45 days of the initial referral to Part C.

1.5% of infants and toddlers with IFSPs will be between the ages of birth to age 1 in comparison to national data.

3.0% of infants and toddlers with IFSPs will be between the ages of birth to age 3 in comparison to national data.

100 % of all children exiting Part C and eligible for Part B will receive a timely transition conference.

D EVALUATION

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

E. FAMILY CHILDREN FIRST COUNCIL

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

II. TERMS SERVICE

- A. This contract is effective on the **July 1, 2011 through June 30, 2012** for the Part C Early Intervention services provided by the ESC.

III. CONTRACT VALUE

- A. The total value of this contract shall not exceed **\$2,375,034.00** 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 the Part C Early Intervention 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 the Federal Part C Early Intervention Program required services.

V. INVOICING REQUIREMENTS

- A. To facilitate payment of actual costs and charges associated with HMG programs, 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

VI. DUPLICATE BILLING

- A ESC certifies that expenses submitted to OEC for Federal Part C required services and programs 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 program expenditures and fiscal agent fee for the Federal Part C Early Intervention Program.
- 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 of 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 the 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:
 - a) Invoices submitted 60 days or more after the end of the service month during the contract period
 - b) Invoices submitted 60 days or more after the expiration of the contract
 - c) 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 OEC, or 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 litigations, 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 OEC, 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:

a) 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.

b) Services billed and payment made by OEC for services not covered by the contract.

c) 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 Federal 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: Rebekah L. Dorman, Ph.D.
Office of Early Childhood
310 West Lakeside Avenue, Suite 565
Cleveland, Ohio 44113

XVII. INDEMNIFICATION

A. ESC agrees to indemnify and save the County of Cuyahoga, 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 the Federal Part C Early Intervention Program provided under this agreement, it should be clearly stated that said services are a part of and funded by Cuyahoga County and OEC 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 Cuyahoga 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 Executive

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 o 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 OEC, 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:
- a) Applicable law,
 - b) Educational Service Center of Cuyahoga County policies and practices,
 - c) Directives of Ohio Department of Health,
 - d) Directives of the Ohio Department of Job and Family Services,
 - e) Directives from the Cuyahoga County,
 - f) Directives from the Administrative staff of Help Me Grow,
 - g) Directives from the Office of Early Childhood,
 - h) 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
5811 West Canal Road
Valley View, Ohio 44125

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

XXXII. ELECTRONIC SIGNATURES

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 that county to said document 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 Revision Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS THEREOF, Cuyahoga County for the Office of Early Childhood, the Educational Service Center of Cuyahoga County and Help Me Grow of Cuyahoga County have caused this Agreement to be executed this _____ day of _____, 2011

HELP ME GROW OF CUYAHOGA COUNTY

By: Melissa Manos
Melissa Manos, Program Director

EDUCATIONAL SERVICE CENTER OF CUYAHOGA COUNTY

By: Robert A. Mengerink
Dr. Robert Mengerink, Superintendent

CUYAHOGA COUNTY, OHIO Edward F. Fitzgerald, County Executive

By: Edward F. Fitzgerald
Edward F. Fitzgerald, County Executive