

C O N T R A C T
BY AND BETWEEN
CUYAHOGA COUNTY
AND
THE CHILDREN'S MUSEUM OF CLEVELAND

THIS CONTRACT entered into this _____ day of _____, 2013, by and between the County of **Cuyahoga**, Cuyahoga County, Ohio (hereinafter referred to as the "**COUNTY**"), on behalf of the **Office of Early Childhood** (hereinafter referred to as the **OEC**) and **The Children's Museum of Cleveland** (hereinafter referred to as the **PROVIDER**), a nonprofit corporation in the City of Cleveland, with principal office located at 10730 Euclid Ave., Cleveland, Ohio 44106.

WHEREAS, the **COUNTY** has determined that it requires the services indicated below for the **OEC**; and finds it necessary to enter into a contract with the **PROVIDER** for the amount not to exceed **\$92,000.00**;

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

WHEREAS, there is a growing body of scientific evidence that tells us that socio-emotional development begins very early in life, that it is a critical aspect of the development of overall brain architecture, and that it has enormous consequences over the course of an individual's lifetime;

WHEREAS, the **OEC** desires to create an interactive museum exhibit, the **Young Children's Emotional Development Exhibit**, that would help young children recognize and identify their own feelings, as well as suggest developmentally appropriate coping strategies for them to use when they are afraid, sad, angry, etc. In addition, the **OEC** desires as part of the exhibit parallel information for parents and other caregivers that would help them support young children's socio-emotional development;

WHEREAS, the **PROVIDER** has a solid track record of developing museum exhibits and attracting children and parents to engage them in experiential learning.

NOW, THEREFORE, all parties agree as follows:

I. SCOPE OF SERVICE

RESPONSIBILITIES OF PROVIDER

Under the terms of this Contract, the **PROVIDER** shall perform or provide the following services for OEC in accordance with the **COUNTY's** laws:

A. SERVICES TO BE PROVIDED

1. The **PROVIDER** shall design and develop the **Young Children's Emotional Development Exhibit** to include fabrication of exhibit components, graphic designer to design text panels and marketing/promotional materials, printing of the text panel which will be adhered to the exhibit components, props to create an interactive play environment, and exhibit designer to design the exhibit components;
2. The **PROVIDER** shall develop scripts and film two videos on emotions which will be housed in the **Young Children's Emotional Development Exhibit** components; **PROVIDER** will engage actors to come to the Museum and act out different vignettes surrounding emotions to use for these videos;
3. The **PROVIDER** will market the **Young Children's Emotional Development Exhibit** to appropriate audiences;
4. The **PROVIDER** will purchase shipping crates to ship **Young Children's Emotional Development Exhibit** to The Children's Museum and install the exhibit at The Children's Museum of Cleveland.

II. CONTRACT PERIOD

Subject to the terms and conditions set forth in this contract, this contract is effective for the period commencing on **May 1, 2013 through April 30, 2014**, unless terminated in accordance with procedures enumerated in **Section VIII** below, "**CONTRACT TERMINATION**".

III. CONTRACT VALUE

The total value of this contract for all services and travel related costs associated with the **Young Children's Emotional Development Exhibit** shall not exceed **\$92,000.00** in the aggregate for all applicable costs in accordance with Exhibit I of this contract. An advance payment of \$43,000.00 shall be made after full execution of this contract. This amount shall be repaid by deducting at minimum, \$3,583.33 from each month's invoice for eleven months and the twelfth and final repayment amount shall be \$3,583.37 until the advance is repaid in full.

IV. INVOICING REQUIREMENTS:

A. INVOICING REQUIREMENTS:

1. **PROVIDER** shall invoice **COUNTY** on a monthly basis for payment of all allowable services and expenses outlined in **Exhibit I**.

2. To facilitate payment for all costs associated with the design and development of the **Young Children's Emotional Development Exhibit**, **PROVIDER** shall prepare and submit itemized invoices along with the appropriate support documentation to substantiate all charges submitted for reimbursement to **COUNTY** in accordance with the budget categories outlined in **Exhibit I**.
3. All invoices must be completed, signed and submitted at the close of business each calendar month. All invoices should be mailed to:

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

B. DUPLICATE BILLING:

1. **PROVIDER** certifies that the charges submitted for reimbursement are actual costs associated with the provision of consulting services for the **Young Children's Emotional Development Exhibit** by **PROVIDER** and these costs are not subject to, or submitted for reimbursement to, any other governmental entity or public/private organization.
2. **PROVIDER** further warrants that invoices submitted to **COUNTY** for payment shall be for services rendered related to the **Young Children's Emotional Development Exhibit** and these costs are not duplicate claims made by **PROVIDER** to any other government entity, municipality, nor any other public or private organization for the same Exhibit.

C. MAINTAINING PROPER FINANCIAL RECORDS:

1. **PROVIDER** 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 costs expended in the performance of this Contract. Such records shall be subject at all reasonable times for inspection, review or audit by duly authorized federal or local government agencies including **COUNTY**.
2. **PROVIDER** shall maintain and preserve all documentation used in the provision of consulting services for the **Young Children's Emotional Development Exhibit** to substantiate services provided and/or billed to **COUNTY**.
3. All records including financial records, must remain in **PROVIDER'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 records for a like period of time if in the possession of a second or third party unless otherwise agreed to by **COUNTY**.

4. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three (3) year period, **PROVIDER** 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.

V. RESPONSIBILITIES OF OEC

Under the terms of this Contract, COUNTY shall perform the following duties with respect to this Contract:

A. PROGRAM OVERSIGHT:

1. OEC will provide consultation and support of the **Young Children's Emotional Development Exhibit** in Cuyahoga County as **PROVIDER** may reasonably request.
2. In partnership with **PROVIDER**, OEC will develop performance measures and reporting procedures.
3. OEC will provide requests for meetings, etc., in a timely manner.
4. **COUNTY** shall have 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. Pertinent compliance, financial and operational reviews may be performed by **COUNTY** and/or upon request by the **COUNTY** or in tandem with another state or federal agency in the event of adverse information pertaining to the operation of **PROVIDER** relating to this contract. Additional audits or operational reviews may be warranted in the event of outstanding audit exceptions and performance issues due to non-compliance with the terms and conditions of this Contract.

B. INVOICE PAYMENT RESPONSIBILITIES:

1. OEC will receive and review invoices for completeness and accuracy prior to making payment to **PROVIDER** for the **Young Children's Emotional Development Exhibit**. **PROVIDER** will be paid according to **Article V, B 1 - 3** of this contract.
2. OEC will process the invoice for payment to **PROVIDER** within 30 calendar days upon receipt of a complete invoice.
3. Invoices shall be paid for all applicable and agreed to costs associated with this Contract. **COUNTY** reserves the right to withhold payment from **PROVIDER** in the event invoices for services rendered or expenses incurred are not submitted for payment in a timely manner based on the following conditions:
 - i. Invoices submitted 60 days or more after the end of the service month during the contract period.
 - ii. Invoices submitted 60 days or more after the expiration of the contract.

VI. FUNDING AVAILABILITY

Payments for all services provided in accordance with the provisions of this Contract are contingent upon the availability of funds designated for this service through the \$50,000.00 grant made available by the TreuMart Fund and other donated funds in OEC's operating budget. If funds for the **Young Children's Emotional Development Exhibit** are not available, **COUNTY** shall provide immediate notice to **PROVIDER** and **COUNTY** shall terminate this Contract as provided in section **VIII**.

VII. CONTRACT MODIFICATION

This Contract represents the entire integrated agreement between **COUNTY** for **OEC** and **PROVIDER** 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.

VIII. CONTRACT AMENDMENT

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 **COUNTY**.

IX. CONTRACT TERMINATION

Upon 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. **COUNTY** and **PROVIDER** shall agree on a reasonable phase out of the program as a condition of the termination. Upon expiration of thirty days after the notice of termination, the obligations of all parties under this Contract shall cease, except that **COUNTY** shall reimburse **PROVIDER** for services rendered prior to the final date of termination. The party in breach of the Contract shall have 60 days to remedy the breach and avoid contract termination.

COUNTY reserves the right to terminate this Contract, for any reason, as a result of **PROVIDER**'s failure to perform all contract deliverables as specified in this Contract. Under no circumstances shall **COUNTY** be responsible for or subject to any type of penalty and/or interest payment upon the cancellation of this Contract.

X. VIOLATION OR BREACH OF CONTRACT

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

XI. SEVERABILITY

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 in full force and effect unless revised or terminated pursuant to **Articles VII** or **VIII** of this Contract.

XII. CONFIDENTIALITY

All parties agree they shall not use any information, systems, or records made available

pursuant to this Contract for any purpose other than to fulfill the obligations in this Contract. Each party agrees 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.

XIII. SAFEGUARDING CLIENT INFORMATION

PROVIDER agrees that the use of, or disclosure by, any of its employees and agents of any information concerning client information for any purpose not directly related to the administration of this Contract or carrying out the responsibilities of this Contract is prohibited except upon the written consent of the client or his/her responsible parent or guardian and/or **COUNTY**.

XIV. COMPLIANCE WITH AUDIT REQUESTS

PROVIDER agrees, if required by **COUNTY** or the appropriate state or federal agency or duly appointed agent that directly relates to provisions of this Contract, on the basis of evidence of misuse or improper accounting of funds or substantial errors in determination of eligibility for which **PROVIDER** 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 **COUNTY** or its duly appointed agent.

PROVIDER shall submit to **OEC** a copy of the final report no later than thirty (30) days after the end of the audit.

PROVIDER agrees that **COUNTY** may review all programmatic records and client files including those held by **PROVIDER** or any subcontractor related to this Contract.

XV. RESPONSIBILITY FOR AUDIT EXCEPTIONS

PROVIDER 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 **COUNTY** or any appropriate federal agency or duly appointed agent that directly relates to the provisions of this Contract and whereas services were billed and payment made by **COUNTY**. Full and timely repayment is expected in the event of an audit and discovery of audit exceptions.

XVI. INDEPENDENT CONTRACTOR

PROVIDER, its employees or its agent(s) will act in accordance with the terms of this Contract in an independent capacity and not as officers, employees or agents of **COUNTY**.

XVII. SUBCONTRACTING

PROVIDER may not subcontract **Young Children's Emotional Development Exhibit** services under this Contract.

XVIII. REPORTING MATERIAL ISSUES

PROVIDER shall notify **COUNTY** in writing of all material issues, which involve services provided through this Contract. **PROVIDER** shall submit any pertinent facts or

resolution of said issues to **COUNTY** within 30 calendar days. The notification should be sent to:

Office of Early Childhood
Attn: Rebekah Dorman, Director
310 W. Lakeside Avenue – Suite 565
Cleveland, Ohio 44113

XIX. INDEMNIFICATION

PROVIDER agrees to indemnify and save **COUNTY** and all of its departments, agents, and employees harmless from any lawsuits or actions of every nature and description, brought against **COUNTY** or any and all of its officers, agents, servants, and employees for or account of any injuries or damages received or sustained by a party or parties from any act or actions against **PROVIDER** or its servants, that arise out of the performance of services contemplated by this Contract.

XX. LIABILITY INSURANCE

PROVIDER agrees to contract for such insurance as is reasonably necessary to adequately secure the persons and estates of eligible individuals against reasonable and unforeseeable torts, which would cause injury or death to include, but not limited to, the following insurance requirements as outlined in **Exhibit II**, attached hereto:

- A. PROVIDER** must have and be able to provide evidence of having the following mandatory insurance coverages:
 - a. **Worker's Compensation Insurance** (refer to Exhibit II for liability limits);
 - b. **Commercial General Liability Insurance Insurance** (refer to Exhibit II for liability limits);
 - c. **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles (refer to Exhibit II for liability limits).
- B.** The insurance policies for this contract shall each name the "**County of Cuyahoga, Ohio and its employees**," as an Additional Insured along with other provisions as stipulated on Page 3 of Exhibit II, entitled, "Insurance Coverage Terms and Conditions."

XXI. PUBLICITY

PROVIDER agrees to acknowledge the support of the **COUNTY** by providing language in the introduction panel to the exhibit, and in any publicity release or other public reference including media releases, information pamphlets, etc. related to the **Young Children's Emotional Development Exhibit** developed under this Contract, as follows: "**The I Feel Exhibit was created in collaboration with Cuyahoga County's Office of Early Childhood/Invest in Children with the support of the Treu-Mart Fund, a supporting organization of The Cleveland Foundation and the Jewish Federation of Cleveland**".

PROVIDER is also responsible for providing a copy of each publicity release to **COUNTY** at the time of the release.

XXII. NON-DISCRIMINATION

All parties 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 of 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.

XXIII. GOVERNING LAW

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

XXIV. APPLICABLE LAW

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

XXV. CAPTIONS

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.

XXVI. NOTICES

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: **The Children's Museum of Cleveland**
Attn: Maria Campanelli
Executive Director
10730 Euclid Ave.
Cleveland, OH 44106

TO: **OFFICE OF EARLY CHILDHOOD**
Attn: Rebekah Dorman, Director
310 W. Lakeside Avenue – Suite 565
Cleveland, Ohio 44113

XXVII. MATERIALS DEVELOPED

All materials developed as a result of this Contract will become property of The Children's Museum of Cleveland.

XXVIII. 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 **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 Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of **COUNTY**.

IN WITNESS THEREOF, Cuyahoga County for the Office of Early Childhood and The Children's Museum of Cleveland have caused this Contract to be executed this _____ day of _____, 2013.

The Children's Museum of Cleveland

By: Maria Campanelli

CUYAHOGA COUNTY, OHIO
Edward FitzGerald, County Executive

By: Ed FitzGerald
Edward FitzGerald, County Executive
2013-08-29 16:03:30