

**CONTRACT  
BETWEEN  
THE COUNTY OF CUYAHOGA  
AND  
STARTING POINT**

This contract (the "Contract") made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the County of Cuyahoga, Ohio ("the COUNTY"), on behalf of its Office of Health and Human Services, Division of Community Initiatives, Family and Children First Council (the "FCFC"), with an office at 1801 St. Clair Street, NE, Cleveland, Ohio 44114 and Starting Point, an Ohio non-profit corporation with principle offices located at 4600 Euclid Avenue, Suite 500 Cleveland, Ohio 44115 (216) 575-0061 (hereinafter referred to as the "Agency"). The COUNTY and Starting Point shall be individually referred to as a "Party" and jointly referred to hereinafter as the "Parties".

**WITNESSETH THAT:**

**WHEREAS**, the COUNTY, through its Office of Health and Human Services, Division of Community Initiatives, Family and Children First Council is in need of a lead agency for out-of-school time services, which includes after school and summer programming for children and teenagers, as well as professional development for youth-serving works and other specified services.

**WHEREAS**, FCFC has an approved Justification for Other than Full and Open Competition for a RFP exemption for having Starting Point serve as the Lead agency for out-of-school time services.

**WHEREAS**, Starting Point is the agency that was awarded the State RFGA as the Regional Resource and Referral agency for childcare and out-of-school time.

**WHEREAS**, the agency is responsible for the region, that includes Cuyahoga County.

**NOW, THEREFORE**, the Parties agree as follows:

**1. SCOPE OF SERVICES**

**Agency shall:**

- a) Serve as the lead agency for out-of-school time services, which includes after school and summer programming for children and teenagers, as well as professional development for youth-serving works and other specified services.
- b) Monitor and oversee performance-based contracts developed from the countywide Request for Proposals (RFP) in 2012 with 28 communities throughout Cuyahoga County.
- c) Assess the community contracts on an annual basis for the year using the Youth Program Quality Assessment (YPQA) and an Efforts-to-Outcome data collection process, as well as available resources, to determine if funding continues in each community each year.
- d) The agency will issue one-year contracts, based on the availability of funding and performance, to maintain consistency with the Youth Program Quality Assessment (YPQA) and an Efforts-to-Outcome data collection process.
- e) Performance based contracts should include the following:
  - Identification of services, which are connected to a community plan as a response to a service gap.

- Services that focus on social and emotional development, academic improvement, leadership, employment preparation, and improved health and wellness.
  - Eligible communities must identify a funding or an approved in-kind match
  - Eligible communities must participant in mandatory services from the Agency:
    - Efforts-to-Outcome data collection process
    - Youth Program Quality Assessment (YPQA)
    - Professional development
    - Naviance – Higher Education Compact (Cleveland neighborhoods)
    - Cuyahoga County Youth Development Early Warning System
- f) Contract with local libraries to provide tutoring programs that support academic improvement.
- g) Contract with Scenarios USA to assist in maintaining the countywide literature/screenwriting contest.
- h) Provide professional development services to funded and unfunded out-of-school time partners.
- i) Provide transition services that include supporting a child's transition into kindergarten and college access services.
- j) With the approval of the FCFC office, Starting Point has the option to re-release an RFP to fill service gaps that still exist.

**County shall:**

- a) Provide direction and oversight to the Provider as may be reasonably expected or requested.
- b) Regularly monitor development and provide assistance and direction as needed.
- c) Provide an assigned staff person and technical assistance that includes a minimum monthly meeting.
- d) Partner with Starting Point and other stakeholders to actively pursue additional funding for the program.
- e) Align outcomes and indicators to be measured with goals of youth development.

**2. CONFIDENTIALITY**

- a. Starting Point shall take all steps necessary to protect the COUNTY's trade secrets.
- b. Starting Point shall also treat as proprietary and confidential any and all information belonging to COUNTY, which is disclosed to Starting Point in the course of performance of Services under this Contract (the "Confidential Information"). Provider shall only use Confidential Information for the purposes of this Contract. Provider agrees not to disclose or reveal to any outside party or use for its own benefit, either directly or indirectly, any information which it may acquire or develop or, has acquired or developed concerning the technical or business affairs or other private or confidential matters, information, or data of COUNTY without prior written permission of COUNTY. COUNTY will abide by law in granting or denying any permission for disclosure. Confidential Information shall not include information that is in the public domain.
- c. If Starting Point fails to meet its obligations to protect the Confidential Information, COUNTY may seek equitable relief.

**3. OWNERSHIP OF PROPERTY**

Starting Point shall retain ownership of any proprietary research products related to the evaluation work described under the Scope of Services. Starting Point agrees that the COUNTY and FCFC shall retain ownership of all data and rights to use all reports, charts, graphs and other writings developed for the COUNTY and FCFC under the Scope of Services for its own internal, non-commercial purposes. THE COUNTY and FCFC shall

own any products produced for the COUNTY as a result of the technical assistance or consulting portions of this agreement.

In accordance with Section 2, Confidentiality, Starting Point agrees not to divulge County's Confidential Information in materials developed for its educational and research purposes, including publication of scholarly articles. Starting Point shall be free to use the data and conclusions of the research for its own teaching, research, educational and publication purposes, except as noted below. Starting Point agrees to submit to the COUNTY a copy of any proposed publication resulting from the research at least **thirty (30)** days prior to submission and agrees to incorporate the COUNTY's recommendations and edits when appropriate (within the thirty (30) day period).. If no comments are received from the COUNTY within this **thirty (30)** day period, it is agreed that the publication can proceed without delay. If the COUNTY determines that the publication contains patentable subject matter that requires protection, the COUNTY may require the delay of the publication for a reasonable period of time so the COUNTY may pursue such protection; such delay, however, shall not be imposed on the filing of any student thesis or dissertation.

#### **4. TIME OF PERFORMANCE**

The term ("Term") under this Agreement shall be from **September 1, 2013 through September 30, 2014** unless terminated at an earlier date in accordance with the provisions of this Contract.

#### **5. ANTI-DISCRIMINATION**

Starting Point agrees to provide the Services without discrimination on account of race, sex, color, religion, national origin, age, occupation, physical or mental disability or veteran status, to the extent required by law. The Parties agree that discrimination and affirmative action clauses contained in Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, binding upon Starting Point.

#### **6. COMPENSATION AND METHOD OF PAYMENT**

THE COUNTY shall reimburse Starting Point for allowable personnel and related expenses incurred in providing the above-mentioned Services, in the amount of One Million Six Hundred Thousand Dollars (\$1,600,000.00) for 2013-2014. Additional funding for 2014-2015 will be based upon the budget.

- a. Starting Point shall be required to submit monthly invoices that reflect the expenditures reported in the Financial Report required in this Contract. Monthly financial reporting may be required during all or part of the Contract Term, or more frequently should the COUNTY determine that a greater frequency of reporting is necessary for the monitoring of the Contract. Reimbursement for expenditures shall be made within forty-five (45) days after receipt by the COUNTY of an invoice detailing expenses incurred, provided that the funds for the project have been deposited with the COUNTY. Starting Point will be reimbursed for those expenditures included in the approved budget. Starting Point may adjust budget line items up to ten percent (10%) per line item. Any adjustment exceeding ten percent (10%) must be approved by the COUNTY before Starting Point incurs the expense. Starting Point will attach proper documentation to each invoice: (1), detailing the expenditures for the month; (2) describing the Services completed and the time period covered; and (3) stating the amount billed on official Starting Point letterhead. THE COUNTY may withhold reimbursements if Starting

Point has been notified of non-compliance with any pertinent Federal, State and/or County laws, regulations, requirements and conditions.

- b. The COUNTY will compensate Starting Point on a monthly basis for invoices submitted showing expenditures to the budget outline below:

Out of School Time Programs	\$ 1,015,000.00 = 63%
Efforts to Outcome Database and Surveys	\$ 130,000.00 = 8.1%
Professional Development	\$ 100,000.00 = 6.3%
Tutoring	\$ 95,000.00 = 6.0%
Transition to Kindergarten	\$ 90,000.00 = 5.6 %
College Access	\$ 95,000.00 = 6.3%
Scenarios	\$ 75,000.00 = 4.7 %
Total Cost for 2013-2014	\$ 1,600,000.00

## **7. AVAILABILITY OF FUNDS**

- I. Initial Appropriation. Beginning on the effective date through September 30, 2014; the County shall appropriate One million Six hundred thousand dollars (\$1,600,000.00) to the Contract (the "Initial Appropriation").
- II. Failure of Appropriation. Any provision of this Contract to the contrary notwithstanding, payment by the COUNTY hereunder shall be subject to annual appropriation of sufficient funds by Cuyahoga County Council, as set forth in this Article 7. The COUNTY may terminate this Contract, on thirty (30) days written notice to Starting Point., in the event of insufficient appropriation, at no additional charge or cost to the COUNTY.

## **8. TERMINATION OF AGREEMENT**

- a. For Convenience. This Contract may be terminated by either Party for convenience at its sole discretion upon sixty (60) days written notice to the other Party. Upon delivery of said notice and upon expiration of the sixty (60) day period, Starting Point shall discontinue all Services and shall promptly cancel all existing contracts in so far as such contracts are chargeable to this Contract. In case of such termination, payments shall be made as determined by the COUNTY for all documented Service related costs incurred for purposes of performing this CONTRACT. The amount due and invoiced shall not include any costs incurred or anticipated costs beyond the scope of this Contract and/or the end of the sixty (60) days.
- b. For Cause. This Contract may be terminated by either Party upon written notice to the other Party if one Party materially defaults in the performance of any of its material covenants, agreements or obligations hereunder, and such default continues for a period of sixty (60) days after written notice of such default or breach from the non-defaulting Party. Any amount due and invoiced for Services rendered prior to termination shall not include any costs incurred or anticipated costs beyond the scope of this Contract and/or the end of the sixty (60) days.
- c. Phase-out. The FCFC and Starting Point shall agree on a reasonable phase out period for the Services to be performed hereunder after termination.
- d. Survival of Section. The provisions of this Section shall survive the termination or expiration of this Contract.

## **9. REPORTING REQUIREMENTS**

### **Financial Reports**

Starting Point shall furnish to the COUNTY by the 10<sup>th</sup> business day of each month a financial report ("Financial Report") accompanied with back-up documentation describing the expenditure of funds for Services provided hereunder. The format of this report shall be determined by the COUNTY. The COUNTY will not reimburse Starting Point for Services completed One Hundred Twenty (120) days beyond authorization by the COUNTY to perform the Services or the Starting Point's completion of Services.

## **10. ADMINISTRATION**

Starting Point shall not make material changes in the design of Services under this Contract that materially affect Services to be provided under this Contract unless the FCFC Director has been notified in writing ninety (90) days in advance of the proposed change and approves any such change in writing. The FCFC office will review the proposed change and notify the Starting Point whether the change is acceptable within forty-five (45) days of receiving notice. The FCFC will not unreasonably withhold approval of the requested changes. Starting Point shall notify the FCFC of any changes in location of Services to be provided under this Contract.

## **11. SUBCONTRACTING**

- a. Starting Point may not subcontract the Services to be performed hereunder without the explicit prior written approval of the County. All subcontracts are subject to the same terms, conditions, and covenants contained within this Contract. Starting Point is responsible for making direct payments to all subcontractors for any and all services provided by such subcontractors. Starting Point will be responsible for all acts and work product of any its subcontractors hereunder.
- b. Starting Point shall notify the FCFC office not later than seven (7) business days of the execution of each subcontract or each amendment, modification, or termination; and shall promptly provide the FCFC office with a copy of each subcontract, and any amendment, modification or termination thereof.

## **12. HEALTH INSURANCE PORTABILITY and ACCOUNTABILITY ACT OF 1996 (HIPAA)/CONFIDENTIALITY**

The Parties shall cooperate in operational requirements imposed upon them by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any other applicable State or Federal law governing protected health information, the confidentiality of alcohol and drug abuse records, or other records. Each Party shall take necessary reasonable steps to comply with HIPAA and other requirements, including the following:

- a. Entering into an appropriate agreement prior to the use or disclosure of protected health information involving any child/family served under this Contract. The elements of such agreements shall conform to HIPAA requirements.
- b. Cooperating in determining how information will be transmitted to conform to requirements related to electronic data interchange (EDI). If necessary, the Parties will enter into an appropriate agreement that defines the duties of the Parties for EDI transmissions.
- c. Cooperating in assessing joint security issues in order to allow the Parties to conform to security requirements. If necessary, the Parties will enter into

appropriate agreements in accordance with HIPAA requirements, which will address joint security issues.

- d. Adhering to any applicable provisions of 42 CFR Part 2, governing the confidentiality of alcohol and drug abuse records.

### **C. INSURANCE**

- a. Starting Point shall have in effect during the Term of the Contract comprehensive general liability insurance naming Cuyahoga County and its employees as co-insured or additional insured. Starting Point shall have (1) Comprehensive General Liability, including Public Liability in the amount of \$1,000,000 per claim and \$2,000,000 annual aggregate; and (2) Professional Liability Insurance in the amount of \$1,000,000 per claim and \$1,000,000 annual aggregate. The insurance shall protect the COUNTY and its officials, officers, employees, agents, representatives, departments, agencies, boards, commissions and other authorities and any subcontractor performing work covered by the Contract against claims for personal injury including accidental death, as well as for property damages which may arise from operations under the Contract whether such operations be by contractor or by any subcontractor or by anyone directly or indirectly employed by either of them. A Certificate of Insurance with the minimum levels of insurance shall be submitted to the County prior to execution of this Contract.
- b. Subcontractor's Insurance (if applicable) - Starting Point shall either (1) require each of its subcontractors to procure and to maintain during the life of the subcontract, Subcontractor's Public Liability, Property Damage and Vehicle Liability Insurance of type and in the amounts specified above, or (2) insure the activities of the subcontractor in its own policy as specified above.
- c. Special Provisions – The policy or policies shall contain the following special provisions: Starting Point agrees that (10) 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 the Cuyahoga County Office of Procurement and Diversity, County Administration Building, Second Floor, 1219 Ontario, Cleveland OH 44113.

### **14. MISCELLANEOUS PROVISIONS**

- a. **Relationship of Parties:** Starting Point shall be and remain an independent Contractor with respect to all Services performed under this Contract and agrees to and does accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal law which are measured by the wages, salaries or other remuneration paid to persons employed by Starting Point for work performed under the terms of this Contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized state or federal officials.
- b. **Acceptance of Performance:** Acceptance of performance is a condition of the Contract. It shall be understood and agreed that an agent of the COUNTY shall determine finally the satisfactory quality of the Services and/or materials furnished under the Contract. Failure to meet performance requirements is a reason for termination of the Contract and Starting Point shall be liable to the COUNTY for any excess cost and/or expenses incurred by the COUNTY thereafter.

- c. **Cuyahoga County Tax Status:** The COUNTY is a tax-exempt No. 29 political subdivision of the State of Ohio. (Federal I.D. No. 34-6000817). Necessary tax exemption forms will be furnished to Y.O.U. when the Contract is signed.
- d. **Personal Property Taxes and Insurance Premiums:** The County of Cuyahoga shall not assume responsibility for the payment of any personal property taxes for any materials not owned by the County of Cuyahoga; nor shall the County of Cuyahoga pay any insurance premiums for any coverage of any property not owned by the County of Cuyahoga Ohio; and no conditions shall alter this statement.
- e. **Notices:** All notices and other communications shall be hand delivered, sent by private overnight mail service, or sent by registered or certified U.S. mail, postage prepaid, return receipt requested, and addressed to the Party to receive such notice or other communication at the address given below, or such other address as may be designated by notice in writing. Such notices or other communications shall be effective upon receipt by an employee, agent or representative of the receiving Party authorized to receive notices or other communication sent or delivered to applicable parties as set forth in the chart below.

Starting Point	Family and Children First Council
<b>Administrative Contact</b>  <b>Name:</b> Billie Osborne-Fears Executive Director Starting Point <b>Address:</b> 4600 Euclid Ave. Cleveland, OH 44103 <b>Telephone:</b> 216-575-0061 <b>Fax:</b> 216-575-0102 <b>Email:</b> <a href="mailto:billie@starting-point.org">billie@starting-point.org</a>	<b>Administrative Contact</b>  <b>Name:</b> Robin R. Martin, Program Director Family and Children First Council <b>Address:</b> 1801 St. Clair Ave., NE Cleveland, Ohio 44115 <b>Telephone:</b> 216-443-7239 <b>Fax:</b> 216.698-2870 <b>Email:</b> <a href="mailto:rmartin@cuyahogacounty.us">rmartin@cuyahogacounty.us</a>
<b>Financial Contact</b>  <b>Name:</b> Sandy Jenkins-Driscall, Accounting Manager <b>Address:</b> 4600 Euclid Ave. Cleveland, OH 44103 <b>Telephone:</b> (216) 575-0061 ext. 549 <b>Fax:</b> (216) 575-0102 <b>Email:</b> <a href="mailto:sandy.jenkins@starting-point.org">sandy.jenkins@starting-point.org</a>	<b>Financial Contact</b>  <b>Name:</b> Robin R. Martin, Program Director, Family and Children First Council <b>Address:</b> 1801 St. Clair Ave., NE Cleveland, Ohio 44115 <b>Telephone:</b> 216-443-7239 <b>Fax:</b> 216.698-2870 <b>Email:</b> <a href="mailto:rmartin@cuyahogacounty.us">rmartin@cuyahogacounty.us</a>

- f. **Assignment:** Starting Point shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without the prior written approval of the COUNTY.
- g. **Severability:** Should any portion of this Contract be deemed unenforceable by any administrative or 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 the terms of this Contract
- h. **Force Majeure:** Neither Party to this Contract will be required to perform, or will be liable for failure to perform, its obligations hereunder that it is unable to

perform due to causes which are outside of the control of the Parties and could not be avoided by exercise of due care of the Parties. Such causes, if creating an inability to perform obligations under this Contract, may include but are not limited to riot, civil disorder, epidemic, fire, or violence of nature. In the event that a Party to this Contract is unable to perform its obligations as a result of the causes referenced herein, that Party shall be required to notify the other Party of such cause and the Party's inability to perform its obligations, as soon as reasonably practicable.

In the event one of the Parties to this Contract is unable to perform its obligations under this Contract due to a cause described in this section, the other Party shall be excused from performance of its obligations under this Contract, except for the obligation to tender payment for Services already rendered pursuant to this Contract.

- i. **Exhibits and Attachments:** The exhibits, attachments, and documents referenced are hereby incorporated as part of this Contract. Should any section of any exhibit, attachment, or document be inconsistent with any requirement of this Contract, the terms of this Contract shall control.
- j. **Governing Law:** This Contract shall be governed by and interpreted in accordance with the laws of the State of Ohio; and it is subject to the review of the COUNTY'S Law Department as to legal form and correctness.
- k. **Waiver:** The waiver of breach of any term of this Contract shall not be interpreted as waiver of any other term of this Contract.
- l. **Entire Agreement:** This Contract is the entire agreement between the Parties with respect to the subject matter and it supersedes any and all prior oral or written agreements with respect to the subject matter.
- m. **Indemnity:** Starting Point shall indemnify and save the COUNTY and its officials, officers, employees, agents, representatives, departments, agencies, boards, commissions and other authorities harmless from suits or actions of every nature and description brought against the COUNTY for or on account of any injuries or damages received or sustained by a party (or parties) from (i) any negligent acts of Starting Point, its' officials, owners, members, shareholders, officers, representatives, agents, and/or employees and subcontractors, or servants that arises out of the performance of the Services contemplated hereunder and (ii) any breach of the representations and warranties set forth herein if applicable.
- n. **Findings for Recovery:** Starting Point represents and warrants that it is not subject to an "unresolved" finding for recovery under the Ohio Revised Code Section 9.24. If this representation and warranty is deemed to be false, this Contract is void ab initio, and Y.O.U. must immediately repay to the COUNTY any funds paid under this Contract and must make the COUNTY whole for any damages sustained by the COUNTY.
- o. **Applicable County Ordinances:** All COUNTY contracts, including this Contract, are subject to all applicable COUNTY ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, Cuyahoga County Inspector General Ordinance, and Cuyahoga County Contracting and Purchasing Procedures Ordinance. Copies of all County ordinances are available on the County Council's web site at <http://council.cuyahogaCounty.us/>.

## 15. **ELECTRONIC SIGNATURE POLICY**

By entering into this Contract, Starting Point agrees on behalf of the contracting or submitting business entity, its officers, employees, subcontractors,



subgrantees, agents, or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring COUNTY signatures may be executed by electronic means, and that the electronic signatures affixed by the COUNTY to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. Starting Point also agrees 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 the COUNTY.

IN WITNESS THEREOF, the County of Cuyahoga, Ohio and Starting Point have caused this Contract to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

**STARTING POINT**

*Bille Osborne-Fears* 7/26/2013  
Bille Osborne-Fears, Executive Director Date

**CUYAHOGA COUNTY OF OHIO**

Edward FitzGerald, County Executive

BY: *Ed FitzGerald*  
Edward FitzGerald, County Executive  
2013-10-11 17:29:30