

CONTRACT

THIS CONTRACT made and entered into this 6 day of JUN, 2014 by and between the County of Cuyahoga, Ohio (the "COUNTY") and The Center for Community Solutions ("CCS"), a corporation not-for-profit, with principal offices located at 1501 Euclid Avenue, Suite 310, Cleveland, Ohio 44115 to provide financial support for the AIDS Funding Collaborative ("COLLABORATIVE").

WITNESSETH THAT:

WHEREAS, the COUNTY has committed to support the Citizen's Committee on HIV/AIDS's Report by developing a method of allocating and distributing community-based funding from local governments, health departments and the private sector for programs and projects serving people living with AIDS/HIV; and

WHEREAS, The COLLABORATIVE has been designated as the organization through which these community-based funds will be aggregated and distributed; and

WHEREAS, the CCS is the fiscal agency responsible for distributing and accounting for funds contributed to the COLLABORATIVE.

NOW, THEREFORE, the CCS and the COUNTY hereto agree as follows:

ARTICLE 1 TERMS OF AGREEMENT

- 1.1 **Period of Agreement.** The terms and conditions of this Agreement shall go into effect as of January 1, 2014 and shall remain in effect through December 31, 2015 or until such time as this Agreement is terminated in accordance with Section 1.7.
- 1.2 **Use of Funds.** Funds are to be used to support the funding priorities identified from time to time by the COLLABORATIVE. The COUNTY reserves the right to expend its funds only on projects that are compatible with its policies on the use of public funds.
- 1.3 **Total Compensation.** Compensation shall not to exceed \$300,000. The COUNTY shall make two (2) equal payments in the amount of \$150,000.00 to CCS. Funds shall be paid to the CCS on behalf of the COLLABORATIVE after execution of this Agreement and receipt of an invoice each year bearing the contract name, number, invoiced amount, and purpose. Payments shall be made in 2014 and 2015.

- 1.4 **County Obligation.** This grant is made with the understanding that the COUNTY has no obligation to provide other or additional support to the COLLABORATIVE.
- 1.5 **Distribution of Funds.** The CCS is responsible for the distribution of funds and for maintaining adequate supporting records consistent with generally accepted accounting practices.
- 1.6 **Unexpended Funds.** The CCS shall return unexpended grant funds at the close of the grant period. Funds will also be promptly returned if the COUNTY determines that the CCS has not performed in accordance with the terms set forth in this agreement.
- 1.7 **Termination.** The COUNTY and the CCS shall have the right to terminate this Agreement subject to thirty (30) calendar days prior written notice. All services required by this Agreement shall be provided by the parties to the Agreement to the date of termination. If the CCS incurs any non-cancelable obligations prior to the notification of termination of this contract, they will be honored by the COUNTY.

ARTICLE 2 GENERAL PROVISIONS

- 2.1 **Assignment.** This Agreement shall not be assignable by any of the parties hereto without the prior written consent of the other parties.
- 2.2 **Modification and Waiver.** No cancellation, modification, amendment, deletion, addition, or other change in this Agreement or any provision hereof or waiver of any right or remedy herein provided shall be effective for any purpose unless specifically set forth in writing and signed by the parties to be bound thereby. No waiver of any right or remedy in respect of any occurrence or event on one occasion shall be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion.
- 2.3 **Entire Agreement.** This Agreement, which includes any exhibits attached hereto, contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous arrangements, commitments, representations, or understandings, whether written or oral.
- 2.4 **Headings.** The headings and titles to the articles and sections of this Agreement are inserted for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.

- 2.5 **Severability.** Should any provision hereof be found by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such finding shall not affect the validity or enforceability of any other provision of this Agreement.
- 2.6 **Controlling Law.** All questions concerning the validity and operation of this Agreement and the performance of the obligation imposed upon the parties hereunder shall be governed by the laws of the State of Ohio.
- 2.7 **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.
- 2.8 **Rights and Remedies.** The duties and obligations imposed by this Agreement are in addition to and not in limitation of any duties or obligations otherwise imposed by law. The rights and remedies provided in this Agreement are in addition to and not in limitation of other rights and remedies under this Agreement, at law or in equity, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy.
- 2.9 **Authority.** The COUNTY and the CCS have full power and authority to enter into and perform this Agreement in accordance with its terms. Persons signing this Agreement in a representative capacity of the COUNTY or the CCS have authority to do so.
- 2.10 **Notices.** All notices and communications provided for hereunder shall be in writing and sent via the United States Postal Service, first class prepaid, to the following:

If to the COUNTY:

Sabrina L. Roberts
Administrator of Health Policy & Programs
Cuyahoga County
Courthouse Square Building
310 W. Lakeside Avenue, Suite 500
Cleveland, Ohio 44113

If to the CCS:

John A. Begala, ED and President
The Center for Community Solutions
1501 Euclid Avenue, Suite 310
Cleveland, Ohio 44115
(216) 781-2944

or to such other addresses as may be furnished in writing by either party to the others. Any such notice or communication shall be deemed effective as of the date of mailing, provided, however, that all notices or other communications shall be given verbally at the earliest practical time to the parties entitled to such notice.

ARTICLE 3 INSURANCE REQUIREMENTS

Contractor shall procure, maintain and pay premiums for the insurance coverage and limits of liability outlined below with respect to products, services, work and/or operations performed in connection with this Contract:

3.1 The Contractor shall procure, maintain, and pay premiums for the following forms of insurance:

- a. Worker's Compensation Insurance as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;

\$1,000,000 each employee for bodily injury by disease;

\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

- b. Commercial General Liability Insurance with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;

\$1,000,000 personal & advertising injury;

\$2,000,000 general aggregate;

\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

- c. Business Automobile Liability Insurance covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

Note: If the services required under this Contract include the repairing, servicing, parking or storing of vehicles, then the following insurance coverage shall also be required:

Garagekeepers Legal Liability Insurance with a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident.

3.2 Requirements for All Insurance Coverage

- a. The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:
 - i) Thirty (30) days prior notice of cancellation or material change;
 - ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.
- b. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.
- c. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.
- d. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.
- e. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

- f. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.
- g. The Contractor shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

3.3 Indemnification.

Contractor hereby indemnifies, defends and holds harmless the County and its respective officers, officials, directors, board members, employees, and agents, from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including attorney's fees and other costs of defense), of any nature, kind or description, that result from (a) the negligent acts or omissions of Contractor, including all of its officers, owners, principals, subcontractors, employees, and agents, or (b) breach or default by Contractor under any terms or provisions of this Contract.

Contractor acknowledges that, as a political subdivision of the State of Ohio, County does not indemnify any person or entity. Contractor agrees that no provision of this Contract or any other contract or agreement between Contractor and the County may be interpreted to obligate the County to indemnify or defend Contractor or any other party.

3.4 Governing Law/Jurisdiction

This Contract shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. Contractor hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.

3.5 Annual Appropriations

All of the County's obligations under this Contract are contingent upon the County Council's appropriating the funds on an annual basis necessary for the continuation of this Contract in any contract year. In the event the funds necessary for the continuation of this Contract are not appropriated or approved, the County will notify the Contractor of such occurrence in writing. This Contract shall thereafter terminate and be rendered null and void on the last day of the last fiscal period for which appropriations were made. Such termination is made pursuant to and in accordance with the terms of this Contract and shall not

be considered to be a breach or default on the part of the County, and shall not result in the County having liability to the Contractor or any third party for any penalty, liability or any other expense.

3.6 **Electronic Signature**

THE CONTRACTOR AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, THAT ALL CONTRACT 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. THE CONTRACTOR ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

IN WITNESS WHEREOF, the parties hereto execute this contract as of the date first written above.

THE CENTER FOR COMMUNITY SOLUTIONS

By: John A. Begala
Title: Executive Director

County of Cuyahoga, Ohio County Executive

By: Ed FitzGerald/apc
Edward FitzGerald, County Executive

