

CONTRACT

THIS CONTRACT made and entered into this ____ day of _____, 2014 by and between the County of Cuyahoga, Ohio (the "COUNTY") and Children's Hospital Medical Center, an Ohio non-profit corporation, on behalf of its Drug and Information Center, having its principal place of business at 3333 Burnet Avenue, ML 9004, Cincinnati, OH 45229-3039 (hereinafter called the "CENTER").

WITNESSETH THAT:

WHEREAS, the Center provides American Association of Poison Control Centers (AAPCC) certified poison control services to prevent childhood poisoning accidents, provide information services on poisoning emergencies, and educate the community on poison prevention; and

WHEREAS, the Northern Ohio Poison Center has closed effective February 28, 2014; and

WHEREAS, the COUNTY has determined that it desires to provide support for the basic services available through the CENTER; and

WHEREAS, Children's Hospital Medical Center has committed to continuing its financial support for the Center; and

WHEREAS, the CENTER is an important resource to parents, citizens, emergency medical service personnel, physicians and hospitals.

NOW, THEREFORE, the COUNTY and the CENTER hereby agree as follows:

ARTICLE 1 TERMS OF AGREEMENT

1.1 Scope Of Service. The CENTER shall:

- Provide information only and physician referral services in appropriate cases to all citizens, regardless of income or ability to pay, concerning drug and poison related calls;
- Provide 24 hours-a-day emergency information telephone service during calendar year 2014;
- Provide physicians with drug information regarding the interaction of specific drug and/or clinical impact of drugs on patients

(professional toxicology consultation), upon request. Such information shall not be considered as a substitute for the physicians' own judgment in providing treatment; and

- Maintain records on all calls received and referrals made.

1.2 **Personnel**

The CENTER will maintain minimally the following staffing patterns:

- Two (2) full time technician positions;
- Two (2) clinical toxicologists; and
- One (1) health care educator.

1.3 **Term**

This contract shall be in effect for the period March 1, 2014, through December 31, 2014.

1.4 **Reporting Requirements**

Any deviations in services adversely affecting the CENTER shall be reported immediately to the COUNTY. The CENTER shall submit a report to the COUNTY no later than 60 days at the end of each quarter, which shall include quarterly and year-to-date information on the following:

- a. information on the current staffing pattern;
- b. the total number of calls received (exposure and information);
- c. the number and percent of calls received by county of origin
- d. the origin of calls received (e.g., family residences, non-hospital workplace, hospital, other health care facilities. Hospital affiliation should also be noted in the statistics);
- e. the disposition of calls;
- f. progress on updating educational and teaching materials;
- g. progress on re-establishing linkages with various segments of the Cuyahoga community; and
- h. report on efforts to engage other communities and organizations who receive benefits from the CENTER to help provide financial support (e.g., other counties served); and
- i. any other information as may be reasonably required by the COUNTY.

1.5 **Fees; Invoicing**

The COUNTY shall make equal payments on the amount of \$32,175.00 upon receipt of an invoice and corresponding quarterly report. The first two quarterly reports may be combined. In no event shall payments for this program exceed \$128,700 (the "Maximum Amount").

In no event shall the County have any obligations to continue providing Services under this Contract when the fees for Services rendered have reached or exceeded the Maximum Amount.

**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 CENTER 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 CENTER 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
 310 W. Lakeside Avenue, Suite 500
 Cleveland, Ohio 44113

If to the CENTER: Todd D. Carson, M.S.
 Drug & Poison Information Center
 Children's Hospital Medical Center
 3333 Burnet Ave.
 Cincinnati, OH 45229

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 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, and Worker's Compensation 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. The County agrees that Contractor shall have the right to provide any of the insurance which is required under this agreement, at its sole discretion, by participating in any self-insurance program as may be applicable. Confirmation of Contractor's such self-insured status shall be provided.
- 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.

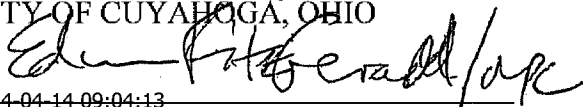
IN WITNESS WHEREOF, the parties hereto execute this contract as of the date first written above.

Children's Hospital Medical Center,
In support of the Drug and Poison Information Center

By: 

Name: *SCOTT Hamlin*
Title: *Executive Vice President & COO*

Edward FitzGerald, County Executive
COUNTY OF CUYAHOGA, OHIO

By: 
2014-04-14 09:04:13

Edward FitzGerald, County Executive