

AGREEMENT
BETWEEN
THE NEW YORK STATE UNIFIED COURT SYSTEM
AND
«Organization_Name»

This Agreement, between the NEW YORK STATE UNIFIED COURT SYSTEM, 25 Beaver Street, New York, New York 10004 ("UCS") and «Organization_Name», a New York not-for-profit corporation having its principal office at «Contract_Letter_QryAgencyInfo_LocalAdd» «Contract_Letter_QryAgencyInfo_LocalAdd1», «Contract_Letter_QryAgencyInfo_LocalCit», New York «Contract_Letter_QryAgencyInfo_LocalPos», ("Contractor"), is for the purpose of providing funds for a Children's Center in the «CountiesServed».

WHEREAS, UCS issued Request for Proposals OCA/CPA-327 ("RFP") in 2007 to fund the operation of Children's Centers; and

WHEREAS, in response to this RFP, Contractor submitted a Proposal ("Proposal") on November 29, 2007, on the basis of which Contractor has been selected by UCS to receive funding to operate a Children's Center in «CountiesServed»; and

WHEREAS, it is the intent of the parties that this document shall set forth the terms and conditions pursuant to which Contractor shall receive funding from UCS for the operation of this Children's Center;

NOW THEREFORE, in consideration of the promises herein contained, the parties agree as follows:

I. REQUEST FOR PROPOSALS AND PROPOSAL

The Request for Proposals #OCA/CPA-314 ("RFP") issued by UCS in 2005 for the submission of proposals concerning the funding of Children's Centers in various locations in New York State and the Proposal concerning the operation of a Children's Center for «CountiesServed», which was submitted to UCS by Contractor on in response to the RFP, are incorporated herein by reference.

II. TERM

A. When signed by the parties and approved by all necessary government agencies, this Agreement shall be a multi-year contract, in effect from «Contract_Start_Date» through «Contract_End_Date», unless terminated earlier pursuant to its terms. The term of this Agreement shall consist of individual Annual Budget Periods ("Period"), each of which shall have its own maximum amount of compensation by UCS to Contractor for that Period, as provided in Section V below.

B. The initial Period of this Agreement shall commence on «Period_StartDate» and shall terminate on «Period_EndDate».

C. The maximum compensation to Contractor for each Period subsequent to the initial Period shall be established by UCS following submission by Contractor of a proposed budget for the subsequent Period. Approximately sixty (60) days prior to the expiration of the initial Period and to each subsequent Period, UCS shall provide written notification to Contractor indicating the maximum compensation for the next Period. In the event that the maximum compensation from UCS to Contractor for a new 12 month Period exceeds the approved annualized maximum compensation from UCS to Contractor for the preceding 12 month Period by more than ten percent (10%), the budget for such new Period shall also be subject to approval of the Office of the State Comptroller (“OSC”).

III. TERMINATION

A. This Agreement may be terminated with or without cause by UCS upon thirty (30) days’ written notice to Contractor.

B. This Agreement may be terminated by Contractor only with the prior approval of UCS and upon sixty (60) days’ written notice to UCS.

C. If, at any time, the Chief Administrative Judge or his designee determines that Contractor is not adequately providing services pursuant to this Agreement or that Contractor is otherwise violating any material provision of this Agreement, UCS may, in its discretion, employ either or both of the remedies set forth in Subparagraphs 1 and 2 below, as it deems appropriate,

or, in lieu of either of these remedies, terminate the Agreement pursuant to Subparagraph 3 below:

1. UCS may require that, within a time period designated by UCS, Contractor shall submit a Corrective Action Plan to UCS. Upon approval of the Plan by UCS, Contractor shall implement such Plan in accordance with a schedule to be determined by UCS; or

2. UCS may halt the disbursement of funds payable to Contractor pursuant to this Agreement. UCS shall notify Contractor in writing that the disbursement of funds has been halted and the reason for such action as soon as possible after such action has been taken; or

3. UCS may terminate this Agreement forthwith, without prior notice to Contractor.

C. UCS also may terminate this Agreement forthwith without prior notice to Contractor upon the filing of a petition in bankruptcy or insolvency by or against Contractor.

D. This Agreement shall be deemed terminated immediately in the event that funds for the Agreement become unavailable.

E. In the event of termination of this Agreement pursuant to this or any other Section of this Agreement, UCS shall be liable only for those services actually performed by Contractor up to and including the effective date of termination. Contractor shall not incur any new obligations after the effective date of termination. Within ten (10) days of the effective date of termination, Contractor shall render a final statement of expenses to UCS as provided in Section VI below. Nothing in this Section shall be construed to or shall in fact increase the maximum total liability of UCS to Contractor under this Agreement to an amount in excess of that set forth in Section V below or as established by UCS for a Period subsequent to the initial Period.

IV. SCOPE OF SERVICES

A. Contractor agrees to provide the services necessary to operate the Children's Center in «CountiesServed». The Children's Center shall be run in accordance with the requirements set forth in: (1) the body of this Agreement; (2) the Minimum Requirements set forth in Appendix C, which is attached hereto and made a part hereof; and (3) Contractor's Proposal. The terms of this Agreement and its appendices shall take precedence over the terms of the Proposal. No requirement for the operation of the Children's Center may be waived by Contractor without the prior written approval of UCS.

B. Contractor may not make any material change in the services it is providing pursuant to this Agreement without the prior written approval of UCS.

C. In providing services under this Agreement, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the Americans with Disabilities Act.

V. MAXIMUM COMPENSATION

The maximum total compensation to Contractor from UCS for the services provided pursuant to this Agreement for the first Period of this Agreement, i.e., for the Period from «Period_StartDate» to «Period_EndDate», shall not exceed «Rev_UCS_Allocation». Maximum compensation for all subsequent Periods shall be established in accordance with Section II(C) above. The maximum total compensation to Contractor from UCS for the services provided

pursuant to this Agreement for length of the multi-year term of this Agreement, i.e., «Contract_Start_Date» to «Contract_End_Date», shall not exceed «Contract_Amount».

VI. REIMBURSEMENT AND PAYMENT

A. During the term of this Agreement, Contractor shall be reimbursed for funds actually expended in the provision of services rendered under this Agreement in accordance with the purposes, rates, amounts and manner set forth in this Section and in the budget for the relevant Period. The budget for the initial Period is set forth in Appendix B, which is attached hereto and made a part hereof. In accordance with the procedures set forth in Section II(C) above, a new budget shall be agreed upon by the parties for each subsequent Period, which new budget shall be incorporated into this Agreement by reference and shall replace the budget now contained in Appendix B.

B. Except as otherwise provided in Paragraph C below, payments shall be made in arrears on a quarterly basis and shall be processed upon submission by Contractor and approval by UCS of appropriate statements and vouchers in formats acceptable to UCS and OSC.

C. To the extent permitted by law and regulation, thirty (30) days prior to the beginning of the first quarter of each year in which this Agreement is in effect, Contractor may submit to UCS a request for a single advance payment of up to twenty-five percent (25%) of the annual maximum compensation by UCS for that year. All other payments made during an annual Period shall be made in accordance with Paragraph B above. The advance payment described in this Paragraph C may be made at the discretion of UCS only upon submission by

Contractor of an appropriate voucher, together with sufficient supporting documentation, in a format acceptable to UCS and OSC.

D. At the end of each quarter of every annual Period in which this Agreement is in effect, Contractor shall submit to UCS an expenditure voucher detailing the approved actual costs incurred pursuant to this Agreement during the immediately preceding three (3) month period. These quarterly expenditure vouchers shall be submitted by Contractor to UCS no later than thirty (30) days after the close of the three (3) month periods ending March 31, June 30, September 30 and December 31 in every annual Period in which this Agreement is in effect. Following review and approval of the quarterly expenditure voucher, UCS shall submit a voucher to OSC for payment to Contractor based on the approved expenses.

E. In the event that Contractor receives an advance payment pursuant to Paragraph C above in any annual Period, subsequent payments to Contractor for the first, second and third quarter of that annual Period shall be limited to the lesser of the following:

1. the actual expenses incurred and approved for payment during that quarter of the Period; or
2. twenty-five percent (25%) of the approved budget for the Period.

F. Within forty-five (45) days of the conclusion of each Period in which this Agreement is in effect, Contractor shall submit to UCS a final reconciliation statement for the prior twelve (12) months, detailing the actual final expenses to be charged to the Agreement. If, upon review and approval of such final reconciliation statement, Contractor has expended less than the amount paid by UCS during the prior twelve (12) months, Contractor shall, within thirty (30) days, submit a check to UCS covering the difference. If Contractor's approved expenditures

for said twelve (12) months have exceeded the payments already made by UCS to Contractor, UCS shall reimburse Contractor for the difference by submitting another voucher to OSC for payment to Contractor. Nothing contained herein shall increase the maximum amount payable to Contractor as set forth in Section V above or as established by UCS for any subsequent annual Period of this Agreement.

G. Contractor shall identify for UCS in writing all sources and amounts of revenue for the Children's Center received from sources other than UCS. In the event such additional funds are received for services provided pursuant to this Agreement, the funds actually provided by UCS for such services shall be returned by Contractor to UCS. Unless a non-UCS source of funds has specified that its donation must be used in the provision of services at the Children's Center, donations made to Contractor shall not be deemed sources of revenue for the purposes of this Paragraph.

VII. AUDITING OF BOOKS

To the extent that the Children's Center operated by Contractor pursuant to this Agreement is funded in whole or in part by money originating from the New York State Office of Children and Family Services ("OCFS"), UCS and OCFS shall both have the right to perform pre- and post-audits of the books of account of Contractor with respect to the expenditures made or expenses incurred pursuant to this Agreement. In the event that Contractor is not funded under this Agreement with any money originating from OCFS, only UCS shall have the right to perform such audits. Contractor's books of account shall be open to inspection by UCS and, where applicable, by OCFS, at any mutually convenient time or times. Financial records of

Contractor pertaining to this Agreement shall be retained by Contractor for a minimum of six (6) years after the expiration of this Agreement.

VIII. MONITORING AND REPORTING REQUIREMENTS

A. UCS and OCFS shall have the right to conduct on-site inspections and monitoring of the Children's Center and of the office of Contractor at their discretion and Contractor shall cooperate in facilitating such inspections and monitoring.

B. Contractor shall establish, implement and maintain a data collection system for the Children's Center on forms and in accordance with instructions provided by UCS. All information so collected shall be made available to UCS on a regular basis as determined by UCS.

C. Contractor shall also provide such other written and oral reports as UCS may require. All such reports shall conform to the formats required by UCS.

D. All data relating to the services provided pursuant to this Agreement that is developed by Contractor or by any person or entity acting on Contractor's behalf shall remain the sole property of UCS.

E. Any and all information about children and families receiving services pursuant to this Agreement is confidential. Contractor may not use any such information and data except in accordance with the confidentiality provisions set forth in Section XIV below and with the prior express written authorization of UCS.

F. Prior to the commencement of services at the Children's Center pursuant to this Agreement, Contractor shall submit for review and approval by UCS the rules of the Children's Center, together with all policies and procedures to be implemented in the Children's Center.

G. In accordance with Section B(16) of the Program Requirements provision of Appendix C, Contractor shall notify the UCS Project Director immediately if there is a serious injury or illness or the death of a child in care at the Children's Center. Such notice shall initially be by telephone, email or facsimile, to be followed forthwith by a detailed written report of the incident.

H. As required by Section 1(a)(1) of the Program Requirements provision of Appendix C, quarterly meetings of the Advisory Committee shall be held and Contractor shall provide to UCS a summary of said meetings within ten (10) days after each such meeting.

IX. PROJECT STAFF AND DIRECTORS

A. Upon execution of this Agreement, Contractor shall identify, in writing and for prior approval by UCS, the person who shall serve as Project Director for Contractor, as well as all other persons who shall be responsible for the provision of services under this Agreement.

B. No change or substitution in Contractor's Project Director or in any other management personnel responsible for the provision of services at the Children's Center shall be made without the prior written approval of UCS.

C. UCS shall identify to Contractor the person who, on behalf of UCS, shall be responsible for oversight of the Children's Centers Project and for monitoring the services to be provided by Contractor pursuant to this Agreement. Unless otherwise instructed by UCS or

specified to the contrary in this Agreement, all vouchers and other communications shall be directed by Contractor to the UCS Project Director.

X. STATUS OF CONTRACTOR AND ITS EMPLOYEES AND VOLUNTEERS

Contractor's status hereunder is that of an independent contractor. No employee of Contractor and no person performing services under this Agreement for Contractor on a voluntary or any other basis shall be considered an employee of UCS. Contractor alone shall be responsible for the work, direction, compensation and personal conduct of all such employees, servants, agents, independent contractors and volunteers while working or performing services pursuant to this Agreement for Contractor.

XI. LIABILITY, INDEMNIFICATION AND SET OFF

A. Nothing contained in this Agreement shall impose any liability or duty upon UCS, its agents or employees to persons or entities employed or engaged by Contractor as employees, servants, agents or volunteers or in any other capacity, nor shall it make UCS, its agents or employees liable for the acts, omissions, liabilities, obligations or taxes of whatever nature, including without limitation, unemployment insurance and workers' compensation, of Contractor or its employees, servants, agents, volunteers or independent contractors.

B. Contractor agrees to indemnify UCS against all liability, losses, costs and expenses (including reasonable counsel fees) that UCS may incur by reason of a breach by Contractor of any term, provision, covenant, warranty or representation contained herein or in

relation to Contractor's performance or failure to perform under this Agreement or by reason of the enforcement by UCS of this Agreement or any of its provisions.

C. In the event that any claim is made or any lawsuit or Notice of Claim is brought against the UCS arising out of negligent or careless acts or omissions of an employee, agent, servant, independent contractor or volunteer of Contractor, either within or without the scope of his or her duties, or arising out of Contractor's negligent or careless performance under the Agreement, UCS may withhold further payments hereunder for the purpose of setting off sufficient sums to cover said claim or action. The rights and remedies of UCS set forth in this Section XI(C) shall be in addition to and not exclusive of any other rights and remedies provided for by law or in this Agreement.

XII. NOTICES

Except as otherwise provided herein, all notices under this Agreement shall be made in writing to the other party's Project Director and shall be deemed duly given upon delivery, if delivered by hand, or three (3) days after posting if sent by regular mail.

XIII. TITLE TO EQUIPMENT

A. Throughout the term of this Agreement and any renewals or extensions thereto, Contractor shall retain title to and possession of all furniture, computers and other equipment ("Purchased Equipment") purchased by Contractor with funds included on the Equipment Line of Contractor's approved Budget, regardless of the UCS or non-UCS source of said funds.

B. Upon termination of this Agreement in accordance with Section III above:

(i) Contractor shall submit a final inventory of all such Purchased Equipment to UCS, which inventory shall conform to the requirements of the New York State Judiciary Financial Planning and Control Manual, no later than ten (10) business days after the effective date of termination.

(ii) Title to all Purchased Equipment purchased less than ten (10) years prior to the effective date of termination shall be automatically transferred to UCS, unless UCS exempts a specific item of Purchased Equipment and provides written notification thereof to Contractor;

(iii) Possession of all non-exempt Purchased Equipment shall be transferred to UCS by Contractor at the times and in the manner determined by UCS; and

(iv) Contractor may retain title to and possession of all Purchased Equipment purchased at least ten (10) years prior to the effective date of termination.

XIV. CONFIDENTIALITY

Contractor agrees to safeguard the confidentiality of all information relating to all persons, both adults and children, who receive services from the Children's Center and shall maintain the confidentiality of all such information in conformity with the provisions of all applicable state and federal laws and regulations. Contractor further agrees that it shall educate, monitor and be responsible for its employees, servants, agents and volunteers who are connected in any way to the provision of services pursuant to this Agreement concerning these confidentiality requirements. Any breach of confidentiality by Contractor, its employees, servants, agents or volunteers may be cause for the immediate termination of this Agreement.

XV. PUBLICITY, PUBLICATIONS AND COPYRIGHTS

A. Contractor shall submit all written materials and press communications regarding the Children's Center program, including press releases, to UCS for approval prior to publication, release or other dissemination by Contractor.

B. Contractor shall notify UCS immediately of any inquiries regarding the Children's Center and shall notify the UCS Communications Office immediately in the event of any press contacts regarding the Children's Center.

C. All materials pertaining to the Children's Center must refer to the program as a "Children's Center".

D. The results of any activity occurring pursuant to this Agreement may not be published by Contractor without the prior written consent of UCS. Any such publication shall acknowledge the support of UCS and shall state that the opinion, results, findings and interpretations of data contained therein are the responsibility of Contractor and do not necessarily represent the opinion, results, findings, interpretations or policy of UCS.

E. UCS agrees that Contractor may obtain copyright protection for any form, document, publication or report which may be produced as the result of support given or work completed under this Agreement, provided that such form, document, publication or report has received the prior approval of UCS in accordance with Paragraphs A and D above. UCS expressly reserves the right to a royalty-free, nonexclusive and irrevocable license to reproduce, publish, distribute or otherwise use in perpetuity any and all copyrighted or copyrightable materials resulting from this Agreement or from activity supported by this Agreement. All

publications by Contractor covered by this Agreement shall expressly acknowledge the right of UCS to such a license.

XVI. INSURANCE

A. Contractor, at its own expense, shall procure and maintain throughout the term of this Agreement, comprehensive and general liability insurance coverage, as demonstrated by a certificate of coverage, to protect UCS and the children in Contractor's care in the Children's Center against any and all claims, loss or damage, whether in contract or tort, including claims for injuries or death of persons or damage to property, whether such injuries, death or damage are attributable to the negligence or any other acts or omissions by the Contractor or its employees, agents, servants, subcontractors or volunteers. The insurance must cover liability arising from premises operations, independent contractors, products-completed operations, cross liability coverage and liability assumed in contract. Said insurance shall have a limit of not less than \$1,000,000 for bodily injury and property damage per each occurrence and \$2,000,000 in the aggregate. The liability insurance shall be written on the Insurance Services Office's (ISO) Occurrence Form CG 00 01, or on a substitute form that provides equivalent coverages.

B. Contractor, at its own expense, shall also procure and maintain throughout the term of this Agreement professional liability insurance in the amount of \$1,000,000, with tail coverage for two (2) years, for all staff involved with the provision of any and all services in the Children's Center.

C. Unless specifically waived in writing by UCS, the insurance described in Paragraphs A and B above shall be obtained from a company or companies duly licensed to do

business in the State of New York. All such insurance shall name UCS as an additional insured and shall contain a provision that, in the event of cancellation or modification thereof, UCS shall be notified in writing at least thirty (30) days in advance. Copies of the Certificates of Insurance shall be delivered to UCS as soon as possible after the Agreement has been approved by OSC, if not sooner.

D. In addition, Contractor shall provide Workers' Compensation, Employers' Liability and Disability Insurance for its employees at the Children's Centers, as required by New York State Law.

E. The insurance coverage limits set forth herein may be provided through a combination of primary and umbrella/excess policies.

XVII. SUBCONTRACTING OF CONSTRUCTION COSTS

In the event that Contractor shall be subcontracting the portion of the services being funded by UCS and provided by Contractor pursuant to this Agreement relating to capital changes in the physical space where the Children's Center shall be located, Contractor shall follow the following procedures:

1. In the event that the funding received from UCS for such physical changes shall range between \$2500 and \$5000, Contractor shall, at minimum, solicit at least three (3) bids by telephone for the work to be done.

2. In the event that the funding received from UCS for such physical changes is greater than \$5000, Contractor shall, at minimum, solicit at least three (3) written bids for the work to be done.

3. Contractor shall submit to UCS copies of and documentation concerning all bids received pursuant to Subparagraphs 1 or 2 above for review and approval. If not contained in the bid itself, the documentation submitted to UCS shall describe the work to be done and the costs of that work, broken down to conform to the bid. Except as otherwise provided herein, the selected bid must be that of the lowest responsible bidder. Contractor shall also provide to UCS a brief written explanation of how the successful bid was chosen. If the selected bid is not the lowest one received, Contractor shall explain how the chosen bid was determined to be reasonable and why its selection is in the best interests of Contractor, UCS and the state.

4. All work to be performed by the subcontractor shall be done in compliance with all applicable federal, state and local laws and regulations.

5. In accordance with Section XVIII(G) below, UCS shall have the right to review and approve any agreement entered into by Contractor for the provision of construction services by a subcontractor.

XVIII. MISCELLANEOUS PROVISIONS

A. Appendix A (standard terms for New York State contracts) is attached hereto and made a part hereof. The terms of Appendix A shall take precedence over any other provision or appendix to this Agreement.

B. Contractor shall comply with the Assurances set forth in Appendix D, which is attached hereto and made a part hereof, to the extent that such Assurances are applicable to the Children's Center Program.

C. The terms and conditions of this Agreement, together with its appendices and all documents incorporated herein by reference, represent the full understanding of the parties and no part hereof shall be deleted or changed without the express written consent of the parties. Any material change or modification in the terms of this Agreement shall be in the form of a written amendment to the Agreement, signed by both parties and, where applicable as determined by UCS, subject to approval by OSC.

D. The headings used in this Agreement are for reference purposes only and are not controlling.

E. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then that term or provision shall be deemed stricken and the remaining provisions of this Agreement shall remain in full force and effect.

F. This Agreement and the performance of the obligations of each party hereunder shall be governed by and construed in accordance with the laws, rules and regulations of the State of New York.

G. Except as specified in Section XVII above, the rights and obligations of Contractor under this Agreement may not be assigned, subcontracted, transferred or delegated to any other person or organization without the prior express written consent of UCS. In the event that UCS does approve the assignment, subcontracting, transferal or delegation of any of Contractor's rights or obligations under this Agreement, UCS shall have the right to review and approve any agreement entered into between Contractor and the other party. All such assignees, subcontractors, transferees, or delegates shall conform in every respect to the terms of this Agreement, unless otherwise agreed upon in writing by UCS.

H. Pursuant to Section 5-a of the New York State Tax Law, the sworn certification of Contractor required by Section 5-a (“Contractor Certification”) and copies of any certificates of authority annexed thereto are incorporated herein by reference. Since the term of this Agreement exceeds one (1) year and the Agreement does not include provision for any renewal or extension terms, the Fund shall submit an additional Contractor Certification to UCS annually on or before the day prior to the commencement date of the next succeeding year of the Agreement (“Annual Certification”). The Fund’s failure to submit a required Annual Certification or the Fund’s submission of a false initial Contractor Certification or Annual Certification shall be a material breach of this Agreement for which the Agreement shall be subject to termination by UCS if UCS determines that termination is in its best interest.

WHEREFORE, UCS and Contractor have caused this Agreement to be executed as follows:

Agency Certification

“In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.”

«Organization_Name»

**Unified Court System
State of New York**

Contract No. «Contract»

By:

By:

Signature

Ronald P. Younkins

Title

Chief of Operations,
Office of Court Administration

Title

Date

Date

Attorney General's Signature

Comptroller's Signature

Dated

Dated

ACKNOWLEDGMENT

STATE OF)
) ss.:
COUNTY OF)

On this day of 2006,
before me personally came ,
to me known, who, being by me duly sworn, did depose and say that s/he resides in
, that s/he is the of , the organization described
in the above instrument; that s/he had the authority to sign same; and
that s/he did duly acknowledge to me that s/he executed the same as an act and deed of said
organization.

NOTARY PUBLIC