MEMPHIS TGA RYAN WHITE PART A
SERVICE PROVIDER CONTRACT

This contract (the "Contract") entered into this _____ day of _____, 2010 between SHELBY COUNTY GOVERNMENT, hereinafter referred to as "COUNTY" and **St. Jude Children's Research Hospital, 262 Danny Thomas Place Mail Stop 600, Memphis, TN 38105**, hereinafter referred to as "CONTRACTOR" and "SERVICE PROVIDER" interchangeably.

WITNESSETH

WHEREAS, the COUNTY has the need for the provision of professional services Outpatient/ Ambulatory Health Services, Medical Case Management, Psychosocial Support Services; and

WHEREAS, the CONTRACTOR has the knowledge and expertise to provide such services; and

WHEREAS, the parties are desirous of entering into a contract setting forth the terms and conditions under which the CONTRACTOR will provide said services.

NOW THEREFORE, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

I. SCOPE OF WORK

1.1 The CONTRACTOR shall provide the services as outlined in accordance with, and as described in, the SERVICE PROVIDER's proposal ("Services") in response to a Request For Proposal issued by United Way of the Mid-South as a consultant for Shelby County Government ("COUNTY") attached hereto respectively as Exhibit A and Exhibit B and incorporated herein by reference as if stated verbatim (the "Services").

1.2 This contract is for the provision of Ryan White Part A services to be performed by the SERVICE PROVIDER. The parties hereby agree that The COUNTY shall have no liability or obligation to SERVICE PROVIDER or any other person or entity with regard to any obligation not specifically permitted under the terms of the Contract and/or applicable law.

1.3 The COUNTY is designated by the Ryan White Treatment Modernization Act HIV Emergency Relief Grant Program No. 07-131, Part A, ("Ryan White Part A Grant") pursuant to 42 U.S.C. § 300ff, et seq., as the Transitional Grant Area ("TGA") agency to receive grant funds for the provision of services to people living with HIV/AIDS

("PLWH/A") in the Memphis Metropolitan Statistical Area ("MSA"), a medically underserved population, who are qualified to receive health care and support services as subscribed in the Ryan White Grant document.

1.4 The Ryan White Part A Grant is awarded in two funding sources. One funding source is called the formula portion of the award, and is approximately 71% of the total award. The other funding source is called the supplemental portion of the award, and it is approximately 29% of the total award. Per the Ryan White Treatment Extension Act of 2009, if any portion of the supplemental award is not spent, then the COUNTY will be ineligible to apply for additional supplemental funds from the federal government for the remainder of the grant cycle. If at least 95% of the formula award is not spent, then the COUNTY will lose the difference between 95% of the formula award and the amount of the formula award actually spent, and will be ineligible to apply for additional supplemental funds for the remainder of the grant cycle. If these spending conditions are not met, the SERVICE PROVIDER can expect to participate in reduced funding for the remainder of the program cycle as outlined above.

1.5 SERVICE PROVIDER may not deny services to any Ryan White Part A Grant–eligible client who resides in the TGA as long as the funds are available. The TGA includes the following counties within the Memphis Metropolitan Area: Shelby, Fayette and Tipton counties in Tennessee; Desoto, Marshall, Tate and Tunica counties in Mississippi and; Crittenden County in Arkansas.

1.6 SERVICE PROVIDER hereby agrees to fulfill all of the obligations set forth in the Client Eligibility Plan, Exhibit C, and any and all obligations set forth herein which may be applicable to this Agreement.

1.7 Any revisions to the SERVICE PROVIDER's proposal will be shown as Exhibit D, which shall become incorporated herein by reference only upon the written approval of the COUNTY.

1.8 The parties hereby agree that the COUNTY shall have no liability to SERVICE PROVIDER of any type or kind except to disburse funds to SERVICE PROVIDER on the terms and conditions herein provided and/ or as it is interpreted by the COUNTY in its reasonable discretion. The parties further agree that the COUNTY shall not be obligated to disburse funds to SERVICE PROVIDER or any other person or entity that are not actually received from the U.S. Department of Health and Human Services Health Resources Services Administration ("HRSA") pursuant to the COUNTY's continued receipt of Ryan White Part A Grant Funds, unless otherwise determined by the COUNTY in its good faith discretion.

II. TERM AND COMPENSATION

2.1 This Service Provider Agreement shall begin on **March 1, 2010** and end on **February 28, 2011**, pending approval of all authorized parties and evidenced by their signature affixed to

this contract. The COUNTY shall have no obligation for services rendered by the SERVICE PROVIDER which are not performed within the specified period. The term of this contract may, at the sole option of the COUNTY, be renewed by written notice for up to two additional years, through February 28, 2013, dependent upon the COUNTY's selection by the U. S. Department of Health and Human Services for continuation of the Ryan White Part A Grant funds and satisfactory performance of contract obligations by the Service Provider.

2.2 Payments shall be made to the SERVICE PROVIDER for services actually rendered totaling not more than **$196,890** (fully itemized by service category within Exhibit F attached hereto), which shall be full and complete compensation for all services and expenses of any type or kind provided hereunder, irrespective of the difficulty of any work, hours worked or materials or equipment provided. Payments due hereunder shall not exceed the amount provided above for any reason whatsoever, including cost overruns or otherwise.

In no event shall the liability to the COUNTY for any reason whatsoever exceed **$196,890**, for the procurement of goods and/or services outlined in this contract and any exhibits or other attachments associated therewith or otherwise. The COUNTY may increase, in its sole and absolute discretion, the amount to be paid for additional goods and services. The resources, including any third party revenues, made available through this Service Provider Contract shall be used exclusively for the purposes specified in the Proposal. In the event SERVICE PROVIDER is paid funds under this Service Provider Agreement to which it is not entitled under the terms of the Ryan White Part A grant, SERVICE PROVIDER hereby agrees to repay such amount to the COUNTY within thirty (30) days of written notice and demand for repayment by the COUNTY. To the extent that third party revenues are collected by the Ryan White Treatment Extension Act funded SERVICE PROVIDER, existing Ryan White Act grant funding may and should be used within the organization where the funds were collected, if there is need for a broader range of services, enhanced levels of service for current populations, and/or for serving additional clients, particularly the uninsured. HRSA grant funds are intended for services to support those individuals that have no other form of health insurance coverage and for services not covered by third party payers.

2.3 The COUNTY must receive one program budget covering all services and funding contained in SERVICE PROVIDER's Proposal as approved by the COUNTY before any funds are released. A monthly invoice of expenses, in a form, see Exhibit G, as determined and approved by the COUNTY shall be submitted to the COUNTY by the fifth working day of each month for reimbursement of actual expenses incurred from the prior month. The COUNTY shall pay such invoices within thirty (30) days of its receipt and approval of said invoices, providing timely receipt of reimbursement request, supporting documentation and continued appropriation of funds from the U.S. Department of Health and Human Services. The COUNTY is not obligated to pay, and will withhold from payment, any amounts the COUNTY has in dispute with the CONTRACTOR based on CONTRACTOR'S non-performance or negligent performance of any of the Services under this Contract.

2.4 All expenditures by the SERVICE PROVIDER hereunder must adhere to the line items contained in the SERVICE PROVIDER's Contract. No budget revisions may be made without prior written approval of the COUNTY. The final expenditure report is due no more than 25 days following the end of the SERVICE PROVIDER Contract period on forms to be provided and approved by the COUNTY. The COUNTY will not be responsible for payment of claims later than the 25 days required for the final expenditure reports.

2.5 This SERVICE PROVIDER Contract is subject to the appropriations and availability of COUNTY and Federal funds to finance the grant activity, and the terms and conditions of the Ryan White Part A Grant. In the event that the funds are not appropriated or are otherwise unavailable, the COUNTY may reduce the maximum liability of the SERVICE PROVIDER Contract and/or terminate the SERVICE PROVIDER Contract upon written notice to the SERVICE PROVIDER. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

III. REQUIREMENTS FOR SERVICE PROVIDERS

3.1 The SERVICE PROVIDER must document how each provision of service is necessary because there is no other possible source of funding and show that the Ryan White grant funds are used as the payer of last resort.

3.2 The SERVICE PROVIDER shall not deny services to any Ryan White eligible clients who reside in the TGA based upon the client's place of residence.

3.3 SERVICE PROVIDER shall fulfill obligations as set forth in the Client Eligibility Plan, Exhibit C. Further, SERVICE PROVIDER shall ensure that each consumer certified as eligible for Part A services remains eligible for Part A services and that the consumer is recertified every six months.

3.4 The SERVICE PROVIDER will work with the COUNTY to create a written definition of a "unit of service" and an "encounter" to be performed by the SERVICE PROVIDER for the benefit of the clients served through the Ryan White Part A Grant. SERVICE PROVIDER will also work with the COUNTY to determine the rate of payment for the defined "unit of service," and any payments made to the SERVICE PROVIDER under this Service Provider Agreement will be based upon those agreed upon rates. Based on the foregoing work, the COUNTY shall provide:

(i) the COUNTY's written definition of a unit of service to be performed by the SERVICE PROVIDER for the benefit of Ryan White Clients. (Exhibit F)
(ii) the COUNTY's definition of service in measurable units upon which to base payment, as determined in the COUNTY's sole discretion. Such rate may vary dependent on the service. (Exhibit F)

3.5 The SERVICE PROVIDER and the COUNTY shall comply with all obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its accompanying regulations.

(a) The SERVICE PROVIDER represents and warrants to the COUNTY that it is familiar with requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract, as either or both may be amended from time to time, including, but not limited, to the Health Information Technology for Economic and Clinical Health (HITECH) Act (part of the Stimulus package known as the American Recovery and Reinvestment Act) (collectively, "HIPAA").

(b) The SERVICE PROVIDER represents and warrants that it will cooperate with the COUNTY, including cooperation and coordination with COUNTY privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the SERVICE PROVIDER Contract, so that both parties will be in compliance with HIPAA.

(c) The SERVICE PROVIDER will, upon request, sign any and all documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the COUNTY and the SERVICE PROVIDER in compliance with HIPAA. This provision shall not apply if information received by the COUNTY under this SERVICE PROVIDER Contract is not "protected health information" as defined by HIPAA, or if HIPAA permits the COUNTY to receive such information without entering into a business associate agreement or signing another such document.

3.6 The SERVICE PROVIDER will ensure that all core medical and support services provided with funding reimbursed through this contract meet, at a minimum, the Standards of Care as set forth in the Guidelines and Protocols on HIV/AIDS Care available at http://hab.hrsa.gov/publications.htm and also any Standards of Care adopted and implemented by the Memphis TGA Planning Council.

3.7 SERVICE PROVIDER shall participate in Ryan White Part A Grant meetings, training and planning activities regarding quality management, fiscal management, CAREWare, site monitoring, overall programming and/or any technical assistance as required by HRSA, and/or the COUNTY.

The SERVICE PROVIDER shall make reasonable efforts to attend all Provider meetings.

3.8 The SERVICE PROVIDER must deliver to the COUNTY all documents of any type that are required to be delivered by SERVICE PROVIDER under this contract as provided below, and otherwise herein.

3.9 The SERVICE PROVIDER shall submit to quality management monitoring, contract monitoring and fiscal monitoring visits by HRSA, the COUNTY, and/or agents acting on behalf of HRSA and the COUNTY.

3.10 The SERVICE PROVIDER shall meet financial and program reporting deadlines and requirements as set forth by the COUNTY, and/or HRSA.

The COUNTY may assess penalties for failure to meet financial and program reporting deadlines. Possible penalties could include the delay of administrative budget funds to the Service Provider until such reporting is complete and/or a forfeiture of the SERVICE PROVIDER's administrative budget funds.

3.11 If SERVICE PROVIDER provides Medicaid Eligible services, the SERVICE PROVIDER must be a certified Medicaid Provider or complete application to become certified as a Medicaid Provider within ninety (90) calendar days from the execution of this contract.

SERVICE PROVIDERS are expected to vigorously pursue Medicaid enrollment for individuals who are likely eligible for Medicaid coverage and to seek payment from Medicaid when they provide a Medicaid covered service for Medicaid beneficiaries and also to back bill Medicaid for Ryan White Act-funded services provided for all Medicaid eligible clients upon determination. If a SERVICE PROVIDER wishes to utilize Ryan White Act grant funds for client services that are both eligible for third party reimbursement and grant funding, the SERVICE PROVIDER must have a system in place to bill and collect from the appropriate third party payers. Furthermore, Ryan White Act SERVICE PROVIDERS may and should identify potential sources of third party revenues for each client, refer clients to the appropriate agency for health insurance eligibility determination, set up billing systems, bill all available sources of third party reimbursement, and negotiate the best reimbursement rates possible. SERVICE PROVIDER hereby acknowledges the foregoing requirements and hereby covenants and agrees to fulfill any and all such requirements.

The SERVICE PROVIDER may use grant funds while a Medicaid eligibility determination is pending, but must then back bill Medicaid for Ryan White Act funded services provided to Medicaid eligible clients during the retroactive period of enrollment, but only in accordance with applicable law. Since the inception of the Ryan White Act, the legislation has prohibited the SERVICE PROVIDER from charging the grant for services that have been reimbursed under Medicare, Medicaid, other Federal or State programs, or insurance.

If the client has been determined not to be eligible for reimbursement from Medicaid or from other third party payers or the services provided are not eligible for third party reimbursement, the SERVICE PROVIDER may use grant funds to provide those services without the need to first bill third party sources in accordance with applicable law. Essentially, this makes the grant the "payer of last resort."

3.12 SERVICE PROVIDER shall report all program income on the monthly Part A invoice to the COUNTY.

3.13 The SERVICE PROVIDER agrees to pay all taxes incurred in performance of this Service Provider Contract. The COUNTY recognizes that SERVICE PROVIDER is a nonprofit organization, exempt from federal and state income tax, federal transportation taxes, and certain state and local sales and use taxes, and SERVICE PROVIDER is not required to pay such taxes. SERVICE PROVIDER agrees to pay any other applicable taxes incurred in performance of this Service Provider Contract.

3.14 The SERVICE PROVIDER shall submit to required audits and meet audit requirements in a timely fashion.

All agencies receiving funds must submit an audit/review of their financial statement and condition. These audits/financial reviews must be in accordance with GAAS (Generally Accepted Auditing Standards). All audits/financial reviews must be provided to the COUNTY no later than six months subsequent to the end of the agency's fiscal year. Providers that expend a total of $500,000 or more in federal financial assistance from all funding sources during its fiscal year are required to have an independent audit conducted of its financial statements and condition in accordance with OMB Circular A-133. All SERVICE PROVIDERS receiving any amount of federal funds must also meet the minimum standards for administrative requirements and allowable costs established by the Office of Management and Budget (OMB) in the following Circulars: A-110: Administrative Requirements Applicable to Grants to Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, AND A-122: Cost Principles for Non-Profit Organizations OR A-21: Cost Principles for Educational Institutions.

3.15 The SERVICE PROVIDER shall obtain prior written approval from the COUNTY before purchasing and/or disposing of equipment obtained with funds under this Service Provider Contract.

3.16 SERVICE PROVIDER is required to use the CAREWare software package, and/or other software as required by the COUNTY, to track and report, in a timely fashion, service utilization and the HRSA mandated client health-related outcomes as included in Exhibit E.

(a) SERVICE PROVIDER is required to provide the County Ryan White Program and HRSA timely and reasonable access to Part A data within the CONTRACTOR's CAREWare data systems for reporting and other grant required business.

(b) SERVICE PROVIDER's CAREWare data system must have a connection to the COUNTY's dedicated CAREWare server in a manner which allows for a monthly scheduled data-sharing, using CAREWare's PDE exporting module, from the SERVICE PROVIDER's CAREWare data system into the COUNTY's dedicated CAREWare server.

3.17 The SERVICE PROVIDER will be required to adhere to the following related to evaluation and reports:

(a) The SERVICE PROVIDER will be required to prepare and submit regular reports and supporting documentation. Reports may be due to the COUNTY and/or HRSA.
(b) The SERVICE PROVIDER must keep its regular reports and supporting documentation accessible throughout the Service Provider Contract.
(c) The SERVICE PROVIDER will have at least one site visit by representatives designated by the COUNTY and/or any federal agency during the Service Provider Contract, at the COUNTY's and/or the federal government's sole option.
(d) Agencies will be required to gather and maintain demographic information about the number of women, infants, children and youth served under Ryan White funding. Each funded agency will be required to submit a summary of the number of clients served in each of these categories to the Grantee within twenty (20) business days of the end of the contract year.

3.18 The SERVICE PROVIDER must comply with the guidance for implementing Ryan White programs contained in all current HRSA Program Policy Notices.

3.19 SERVICE PROVIDER will maintain appropriate relationships with entities in the area that constitute key points of access to the health care system for individuals with HIV disease (for example, emergency rooms, substance abuse treatment centers, detoxification centers, adult and juvenile detention facilities, STD clinics, HIV counseling and testing sites, mental health programs, homeless shelters, health care points of entry specified by the State, federally-qualified health centers, migrant health centers, community health centers, health services for the homeless, family planning sites, hemophilia diagnostic and treatment centers, and non-profit private entities that provide comprehensive primary care services to populations at risk for HIV) for the purpose of facilitating early intervention for individuals newly diagnosed with HIV disease and individuals knowledgeable of their positive HIV status but not in care.

3.20 The SERVICE PROVIDER agrees to establish a system through which recipients of services may present grievances about the operation of the service program. Complaints and grievances against SERVICE PROVIDER related to Ryan White Part A Grant supported services will be properly recorded and communicated to Shelby County upon request. The Service Provider will display in a prominent place, located through a passageway in which the public enters in order to receive Ryan White Part A Grant funded services, a sign at least twelve (12") inches in height and eighteen (18") inches in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER ILLEGAL, IMPROPER OR WASTEFUL, PLEASE CALL SHELBY COUNTY GOVERNMENT DIVISION OF COMMUNITY SERVICES AT 901-545-4274.

3.21 All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the SERVICE PROVIDER related to and/ funded by the Ryan White Part A Grant shall include the statement, *"This project is funded as a result of grant awards from the U.S. Department of Health and Human Services, Health Resources and Services Administration, and Shelby County Government."* Any such notices, informational pamphlets, press releases, research reports, signs, and similar public notices by the SERVICE PROVIDER shall be approved in advance of distribution by the COUNTY.

Programs that produce materials with data or information from published sources shall cite the sources of that information in the produced materials. Programs that produce materials with locally produced medical or scientific information must ensure the medical accuracy of the information presented. Therefore, a medical/scientific review must occur prior to the distribution of the materials. To provide for medical review of their materials:

(a) Programs may designate a healthcare provider who will review all materials with medical information. The COUNTY must have letter on file from the designated reviewer stating that he/she agrees to review all materials with medical information for accuracy.

3.22 SERVICE PROVIDER and its employees and/or any and all sub-grantors shall be licensed pursuant to all applicable Federal, State and local laws, ordinances, rules and regulations and shall provide proof of all applicable licenses to the COUNTY upon request by the COUNTY.

3.23 The SERVICE PROVIDER and this Service Provider Contract shall be governed by the laws of Shelby County Government and SERVICE PROVIDER hereby agrees to comply with all applicable Federal, State and local laws, ordinances, regulations and rules of any type or description in its performance under this contract and otherwise.

3.24 If at any time during the term of this contract, the COUNTY determines, in their reasonable discretion, that the SERVICE PROVIDER is not administering funds in accordance with its proposal, the COUNTY will suspend payments under this Service Provider Contract until such time as the COUNTY may authorize the release of the funds and begin work to recover any such funds. SERVICE PROVIDER hereby agrees to repay the COUNTY any such funds in such amount as the COUNTY may determine in their good faith, reasonable discretion for repayment within thirty days of notice and demand by the COUNTY, pursuant to the terms of this paragraph. Even in the event that such funds have been recovered by the COUNTY, the SERVICE PROVIDER is subject to a penalty of up to ten percent (10%) of the funds to be paid to it under the Service Provider Contract.

The SERVICE PROVIDER shall maintain adequate books and records pertaining to this contract and its total operations. Upon reasonable notice during regular business hours, SERVICE PROVIDER shall make such books and records available for audit or other

review by the COUNTY, and/or HRSA, or their respective representatives, at their sole respective discretion.

3.25 The SERVICE PROVIDER may issue press announcements concerning the Service Provider Contract, however, the SERVICE PROVIDER must consult with the COUNTY before doing so and must obtain written approval from the County prior to release of the announcement

3.26 The SERVICE PROVIDER shall comply with 29 USC 701 et seq. (Employment of the Handicapped), 42 USC 12101 et seq. Americans with Disabilities Act, Pub. L. 101-336) and all other applicable federal regulations in the performance of its duties under this Service Provider Contract.

3.27 Failure to comply with HRSA and COUNTY grant guidelines could result in the loss of funding.

IV. GENERAL CONDITIONS

The parties further agree as follows:

4.1 CONTROL

All Services by the CONTRACTOR will be performed in a manner satisfactory to the COUNTY, and in accordance with the generally accepted business practices and procedures of the COUNTY.

4.2 CONTRACTOR'S PERSONNEL

The CONTRACTOR certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONTRACTOR. The CONTRACTOR further certifies that all of its employees assigned to serve the COUNTY have such knowledge and experience as required to perform the duties assigned to them. Any employee of the CONTRACTOR who, in the opinion of the COUNTY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

The SERVICE PROVIDER and the COUNTY certify, by signing this Service Provider Contract to the best of its knowledge that it, its principals, officers, directors and other officials:

(a) Are not presently disbarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;

(b) Have not within the past three years preceding this Service Provider Contract been convicted of, or has had a civil judgment rendered against it (or its officers) for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or Service Provider Contract/contract under a public transaction; violation of a Federal or State antitrust statute or the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(c) Are not presently indicted for or otherwise charged with a criminal or civil violation by any entity with a commission of a Service Provider Contract or contract offense as cited above; and,

(d) Have not within the past three years preceding this Service Provider Contract award, application and/or proposal had a publicly (Federal, State, or local) funded Service Provider Contract, contract or agreement terminated for cause of default.

4.3 INDEPENDENT STATUS

a. Nothing in this Contract shall be deemed to represent that the CONTRACTOR, or any of the CONTRACTOR's employees or agents, are the agents, representatives, or employees of the COUNTY. The CONTRACTOR will be an independent CONTRACTOR over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the COUNTY the right to direct the CONTRACTOR as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONTRACTOR is solely for purposes of compliance with local, state and federal regulations and means that the CONTRACTOR will follow the desires of the COUNTY only as to the intended results of the scope of this Contract.

b. It is further expressly agreed and understood by CONTRACTOR that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the COUNTY; that CONTRACTOR has been retained by the COUNTY to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the COUNTY by CONTRACTOR for the Services performed shall be on the CONTRACTOR's letterhead.

c. The SERVICE PROVIDER, being an independent contractor and not an employee or agent of the COUNTY, covenants and agrees to carry adequate public liability, professional malpractice liability and other appropriate forms of insurance as described above, and to pay any and all taxes directly or indirectly arising from, related to or connected with its business, operations, officers, directors, employees, agents and independent contractors. Furthermore, SERVICE PROVIDER shall have no power or authority to bind or otherwise contractually obligate the COUNTY in any manner or to any extent whatsoever, and this Agreement shall not

be deemed to create a joint venture, partnership or joint undertaking of any type or kind.

d. Subject to the terms and conditions hereof, each party shall be responsible for its own acts and omissions, and neither party shall bear any liability for any loss, expenses, attorneys' fees or claims for injury or damages arising out of any act or omission of the other party in the performance of this Service Provider Contract.

4.4 REPORTS

CONTRACTOR shall prepare and submit quarterly reports of its activities, funded under this Contract, to the originating department and the Contract Administration Department of the COUNTY. The reports shall include an itemization of the use of COUNTY's funds, pertinent information pursuant to the applicable Living Wage Ordinance, and shall be inclusive of specific Services delivered. Any such reports provided to the COUNTY shall be prepared with the understanding that the COUNTY may make such reports available to the public. The quarterly reports and all books of account and financial records that are specific to the work performed in accordance with this Contract may be subject to audit by the Director of the Division of Administration and Finance of the COUNTY. The COUNTY shall have the right to withhold future disbursement of funds under this Contract and any future Contracts until this provision has been met.

4.5 TERMINATION OR ABANDONMENT

a. It shall be cause for the immediate termination of this Contract if, after its execution, the COUNTY determines that:

(i) Either the CONTRACTOR or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has pled nolo contendere, or has pled or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

(ii) CONTRACTOR has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the COUNTY's consent or approval; or

(iii) CONTRACTOR has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONTRACTOR assets.

b. The COUNTY may terminate the Contract upon five (5) days written notice by the COUNTY or its authorized agent to the CONTRACTOR for CONTRACTOR's failure to provide the Services specified under this Contract.

c. This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the CONTRACTOR shall be paid for all Services rendered prior to the Termination Date, provided the CONTRACTOR shall have delivered to COUNTY such statements, accounts, reports and other materials as required under this Contract; however, CONTRACTOR shall not be compensated for any anticipatory profits that have not been earned as of the date of the Termination Date. All Services completed by CONTRACTOR prior to the Termination Date shall be documented and tangible work documents shall be transferred to and become the sole property of the COUNTY prior to payment for the Services rendered.

d. If the SERVICE PROVIDER fails to fulfill in a timely and proper manner its obligations under this contract, or if the SERVICE PROVIDER shall violate any of the terms of this contract, the COUNTY shall have the right to immediately terminate this Service Provider Contract and withhold payments in excess of fair compensation for work completed, and to require the SERVICE PROVIDER to repay to the COUNTY any funds expended in contravention of such conditions. Notwithstanding the above, the SERVICE PROVIDER shall not be relieved of liability to the COUNTY for damages sustained by virtue of any breach of this contract.

e. Notwithstanding the above or any section herein to the contrary, CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by CONTRACTOR and the COUNTY may withhold any payments to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the COUNTY from CONTRACTOR is determined.

4.6 COMPENSATION FOR CORRECTIONS

No compensation shall be due or payable to CONTRACTOR pursuant to this Contract for any CONTRACTOR's Services performed by the CONTRACTOR in connection with effecting of corrections to the design of the Services, when such corrections are required as a direct result of negligence by the CONTRACTOR to properly fulfill any of his obligations as set forth in this Contract.

4.7 SUBCONTRACTING, ASSIGNMENT OR TRANSFER

a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONTRACTOR from performance of the Services under this Contract. The COUNTY shall not be responsible for the fulfillment of the CONTRACTOR's obligations to its transferors or subcontractors.

b. If such subcontracts are approved by the COUNTY, they shall contain, at a minimum, sections of this Service Provider Contract pertaining to Conflicts of Interest, Lobbying, Nondiscrimination, Public Accountability, and Public Notice. Notwithstanding any use of approved subcontractors, the SERVICE PROVIDER shall be the prime contractor and shall be fully and completely responsible for all work performed.

c. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

4.8 CONFLICT OF INTEREST

The CONTRACTOR covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONTRACTOR warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or contractor to the CONTRACTOR in connection with any work contemplated or performed relative to this Contract. Further, no funds hereunder may be contributed to the election campaign of any candidate running for elected office or to influence the outcome of any local, state or federal election.

4.9 LOBBYING

The SERVICE PROVIDER certifies, to the best of its knowledge and belief, that:

a. No federally appropriated funds have been paid or will be paid, by or on behalf of the SERVICE PROVIDER, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Service Provider Contract, loan, or cooperative agreement, the SERVICE PROVIDER shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The SERVICE PROVIDER shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative

agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

4.10 CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

4.11. EMPLOYMENT OF COUNTY WORKERS

The CONTRACTOR will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the COUNTY.

4.12 ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONTRACTOR agrees to permit duly authorized agents and employees of the COUNTY to enter CONTRACTOR's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONTRACTOR will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the COUNTY upon request.

4.13. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

4.14. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

a. CONTRACTOR shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or

damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

b. CONTRACTOR expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

c. The COUNTY has no obligation to provide legal counsel or defense to CONTRACTOR or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONTRACTOR as a result of or relating to performance of the Services under this Contract.

d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONTRACTOR as a result of or relating to performance of the Services under this Contract.

e. CONTRACTOR shall immediately notify the COUNTY of any claim or suit made or filed against CONTRACTOR or its subcontractors regarding any matter resulting from or relating to CONTRACTOR's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

4.15. GENERAL COMPLIANCE WITH LAWS

a. The CONTRACTOR certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.

b. The CONTRACTOR is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational

Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONTRACTOR agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

4.16 NON-DISCRIMINATION

The SERVICE PROVIDER hereby agrees, warrants, and assures that in compliance with Title VI and VII – Civil Rights Act of 1964, no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of the SERVICE PROVIDER on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The SERVICE PROVIDER shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. The SERVICE PROVIDER will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age marital status or status with regard to public assistance.

4.17 ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

4.18. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.

4.19 SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a

legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

4.20 NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

4.21 MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

4.22 TRAVEL EXPENSES

All travel expenses payable under this Contract shall be for work performed under the SERVICE PROVIDER's scope of services. Out of town travel for meetings, conferences, etc. must be HRSA sponsored in order to be allowable under the terms of this contract.

4.23 NON-LIABILITY FOR CONTRACTOR EMPLOYEE TAXES

Neither CONTRACTOR nor its personnel are COUNTY's employees, and COUNTY shall not take any action or provide CONTRACTOR's personnel with any benefits and shall have no liability for the following:

a. Withholding FICA (Social Security) from CONTRACTOR's payments;

b. Making state or federal unemployment insurance contributions on behalf of CONTRACTOR or its personnel;

c. Withholding state and federal income tax from payment to CONTRACTOR;

d. Making disability insurance contributions on behalf of CONTRACTOR;

e. Obtaining workers' compensation insurance on behalf of CONTRACTOR or CONTRACTOR's personnel.

4.24. INCORPORATION OF OTHER DOCUMENTS

a. CONTRACTOR shall provide Services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids as well as the Response of CONTRACTOR thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.

b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

4.25 CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONTRACTOR shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the COUNTY are utilized when possible as sources of supplies and equipment, construction and services.

4.26 RIGHT TO REQUEST REMOVAL OF CONTRACTOR's EMPLOYEES

The COUNTY may interview the personnel CONTRACTOR assigns to COUNTY's work. COUNTY shall have the right, at any time, to request removal of any employee(s) of CONTRACTOR, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

4.27 INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

4.28 DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONTRACTOR, CONTRACTOR understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONTRACTOR due to Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

4.29 ORGANIZATION STATUS AND AUTHORITY

a. CONTRACTOR represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

b. The execution, delivery and performance of this Contract by the CONTRACTOR has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONTRACTOR, any provision of any indenture, agreement or other instrument to which CONTRACTOR is a party, or by which CONTRACTOR's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien , charge or encumbrance of any nature whatsoever upon any of the properties or assets.

4.30. INSURANCE REQUIREMENTS

a. The CONTRACTOR shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the COUNTY from claims which may arise out of or result from the CONTRACTOR's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONTRACTOR or subcontractor may be liable.

b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. All policies will provide for thirty (30) days written notice to COUNTY of cancellation or material change in coverage provided. The CONTRACTOR will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:

(i) Errors and Omissions/or Professional Liability coverage with limits of $1,000,000.00 per occurrence/$3,000,000.00 annual aggregate, indicating if coverage is on occurrence basis or claims made.

(ii) Commercial General Liability coverage with minimum limits of $1,000,000.00 per occurrence bodily injury and property damage/ $1,000,000.00 personal and advertising injury/$2,000,000.00 general aggregate coverage, $2,000,000.00 annual aggregate products/

completed operations, indicating whether coverage provided on a claims-made or on an occurrence basis. The insurance shall include coverage for the following:

a. Premises/Operation;
b. Products/Completed Operations;
c. Contractual Liability;
d. Independent Contractors;
e. Broad Form Property Coverage;
f. Personal Injury.

(iii) Workers Compensation and Employers' Liability Insurance – Workers' compensation statutory limits as required by Tennessee. This policy should include Employers' Liability coverage for $1,000,000.00 per accident.

(iv) Business Automobile Liability Insurance - $1,000,000 each accident for property damage and personal injury. Coverage is to be provided on all:

a. Owned/Leased Autos
b. Non-owned Autos
c. Hired Autos

c. CONTRACTOR shall provide COUNTY with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:

Shelby County Government
Purchasing Department
160 N. Main, Suite 550
Memphis, TN 38103

d. Upon termination or cancellation of insurance currently in effect under this Contract, the CONTRACTOR shall purchase an extended reporting endorsement and furnish evidence of same to the COUNTY.

4.31 NOTICE

All notices, offers, acceptances, waivers, and other communications under this contract shall be in writing, and shall be deemed to have been both given and received when delivered to the party in person or, if mailed, when deposited in the U.S. Mails, by certified mail, postage prepaid, with return receipt requested, to the party at the following address:

COUNTY: Shelby County (*Ryan White Part A Program)*

1075 Mullins Station Rd. W-272
Memphis, Tennessee 38134
Attn.: Ryan White Program Manager

and

Shelby County Government
Contract Administration
160 N. Main St., Suite 550
Memphis, Tennessee 38103

SERVICE PROVIDER: St. Jude Children's Research Hospital
262 Danny Thomas Place Mail Stop 600
Memphis, TN 38105

Or to such other address as any party, by notice to all others, may designate from time to time.

4.32 LIVING WAGE ORDINANCE

In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the COUNTY, including but not limited to both prime and sub-contractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

4.33 PARTIES IN INTEREST

This contract shall inure to the benefit of and be binding upon the parties, and their respective heirs, executors, administrators, successors, and permitted assigns.

4.34. NO THIRD PARTY RIGHTS

The provisions of this contract are for the exclusive benefit of the parties, the COUNTY and the State of Tennessee, and no other person or entity, including creditors of any party hereto, shall have any right or claim against any party by reason of those provisions or be entitled to enforce any of those provisions against any party.

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

APPROVED AS TO FORM
AND LEGALITY:

SHELBY COUNTY GOVERNMENT

Assistant Contract Administrator/
Assistant County Attorney

Joe Ford, Interim Mayor

ST. JUDE CHILDREN'S RESEARCH HOSPITAL

BY: Jennifer Shambroot

TITLE: Director- GCMO

CORPORATE ACKNOWLEDGMENT

STATE OF Tennessee

COUNTY OF Shelby

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Jennifer Shambroot, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the St. Jude, the within named bargainor, a corporation, and that he as such Director, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as Director.

WITNESS my hand and official seal at office this 24th day of March 2010.

Sheila R. Wilson
Notary Public

My Commission Expires: 3-31-10

SHEILA WILSON
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF SHELBY
MY COMM. EXP. MARCH 31, 2010