

Fund	Account	ALI	Department	Program	PO Number	CB and/or R&P Number (if applicable)

Ohio Department of Mental Retardation and Developmental Disabilities

PERSONAL SERVICE CONTRACT

SECTION A. CONTRACT PARTIES

This contract is entered into between the Ohio Department of Mental Retardation and Developmental Disabilities (Agency), on behalf of the following:

Name of Developmental Center, Office, or other Contracting Entity	Address (Street, City, State, Zip)
Montgomery Developmental Center	7650 Timbercrest Dr. Huber Heights, Ohio 45424

and

Contractor's Name	Address (Street, City, State, Zip)	OAKS Vendor Number
		0000074752

Type of Service Provided: **Autism Specialist**

SECTION B. EFFECTIVE DATES

This contract is effective 7/1/2012 through 6/30/2013 unless terminated prior thereto pursuant to Section G. Services shall not begin until Agency receives OBM approved Purchase Order.

SECTION C. COMPENSATION

1. The Contractor will be paid for the term of this contract as follows (check option a or b):
 - a. Fee Schedule. Attach Fee Schedule to Contract or include Fee Schedule in Section D. 1. a.
 - b. Hourly Rate. Complete the information below

Fiscal Year	Rate per Hour	Maximum Hours Worked	Maximum Fiscal Year Contract Amount
2012		60	
2013		60	

Maximum Contract Amount for Biennium

2. Contractor shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of this Agreement.
3. Contractor shall submit a valid invoice on letterhead for the compensation incurred consistent with this Section, within twenty (20) days of the end of each month. Each invoice shall contain the following information:

- a. a description of the services performed and hours worked per service;
 - b. date of the services rendered;
 - c. itemization of the service performed;
 - d. a total for the invoice;
 - e. vendor's name and address
 - f. Department's name
 - g. an attestation that the information contained in the invoice is accurate and true; and
 - h. a signature of an authorizing agent of the Contractor.
4. Agency shall pay Contractor within thirty (30) days of receipt and approval of the invoice.
 5. This Agreement does not guarantee a minimum amount of service. Services shall be performed on an as needed basis as directed by Agency.

SECTION D. DUTIES OF CONTRACTOR

1. Contractor shall:
 - a. The Contractor agrees to provide the following services:
 1. Observation of individual's behavior in the individuals living environment to include up to 7 hours of visual observation per individual.
 2. Interviewing staffs who works with the individual to gather information regarding behavior and routines.
 3. Interview of individuals parents to better understand what they see from the individual away from staff and living environment
 4. Provide written detail report of observations and make recommendations as well as a verbal consultation with Program Director or designee.
 5. Provide staff training around observed needs of individual.

 - b. The services to be performed shall meet the standards set by the Accreditation Council for Mental Retardation and Developmental Disabilities and other accrediting and certifying organizations as appropriate. Contractor shall perform all services with a reasonable standard of care, skill and diligence such as would normally be provided by an experienced consultant.
 - or
 - c. Contractor shall maintain all necessary licenses and registrations. All services shall be performed in accordance with: (1) generally accepted standards of care in the community and the quality criteria adopted by the Agency; (2) policies of the Agency; and (3) applicable rules and standards for the certification of an intermediate care facility for the mentally retarded.
 - d. The contractor reports directly to Mary Wellen, Program Director who will verify the contract's time and service charged to this contract.

SECTION E. NATURE OF CONTRACT

1. Agency enters into this Agreement in reliance upon Contractor's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that Agency is the sole judge of the adequacy of such services. Agency thus reserves the right to terminate this Agreement should Agency at any time be dissatisfied with Contractor's performance of its duties under this Agreement.

2. In the event of a termination of this Agreement by Agency, Contractor shall be reimbursed in accordance with Section G., Termination of Contractor's Services.
3. Agency may, from time to time, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Agreement. Upon such notice, Contractor shall comply with such instructions and fulfill such requests to Agency's satisfaction. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this Agreement. The management of the work, including the exclusive right to control or direct the manner or means by which the work is performed, remains with the Contractor. Agency retains the right to ensure that Contractor's work is in conformity with the terms and conditions of this Agreement.

SECTION F. CERTIFICATION OF FUNDS

1. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that Agency gives Contractor written notice that such funds have been made available to Agency by Agency's funding source.

SECTION G. TERMINATION OF AGREEMENT

1. Agency may, at any time prior to the completion of services by Contractor under this Agreement, suspend or terminate this Agreement with or without cause by giving five (5) days written notice to Contractor.
2. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by Agency, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Agreement, including, without limitation, results, conclusions resulting therefrom, and any other matters Agency requires.
3. Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with invoices as required under Section C. In the event of suspension or termination, any payments made by Agency for which Contractor has not rendered services shall be refunded.
4. In the event this Agreement is terminated prior to its completion, Contractor, upon payment as specified, shall deliver to Agency all work products and documents which have been prepared by Contractor in the course of providing services under this Agreement. All such materials shall become and remain the property of Agency, to be used in such manner and for such purpose as Agency may choose.
5. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against Agency by reason of such suspension or termination.
6. Contractor may terminate this Agreement with or without cause upon thirty (30) days prior written notice to Agency.

SECTION H. INDEPENDENT CONTRACTOR

1. No relationship of employer and employee is created by this contract. Contractor will act hereunder as an independent contractor with no claim under this Agreement or otherwise against

Agency or the State of Ohio for business expenses, travel expenses, vacation pay, sick pay, retirement benefits, workers compensation, or disability or unemployment insurance benefits or employee benefits of any kind. Contractor is not eligible to participate in any employee benefit or retirement plans offered by Agency or the State or Ohio. Agency shall withhold no payroll or employment taxes of any kind

2. Contractor is solely responsible for all of Contractor's business expenses, including the payment or withholding of all federal, state and local income taxes, workers compensation insurance, social security and unemployment insurance, and the payment of wages and salaries, travel expenses, insurance of every kind, and health and retirement plans. Contractor shall indemnify and hold Agency harmless from and against any and all claims, demands, liabilities, losses, damages and expenses resulting in any manner from any act or omission of Contractor or its employees related to its obligation to pay and withhold income tax, social security, unemployment insurance and to maintain worker's compensation insurance.
3. Nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder on an independent contractor basis, that Agency shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.
4. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.
5. Contractor shall submit to a BCI (Ohio residents for more than five (5) years) and/or FBI (Ohio residents less than five (5) years) electronic background check. Contractor's Personal Services Contract is contingent upon successful completion of that criminal records check.

SECTION I. RECORD KEEPING

1. Until the expiration of six (6) years after the termination of this Agreement, Contractor will, upon proper request, allow the Comptroller General of the United States, the U.S. Department of Health and Human Services, the State of Ohio, the Ohio Medicaid Fraud Control Unit and the Ohio Department of Job and Family Services and their duly-authorized representatives access to Contractor's books, documents and records necessary to certify the nature and extent of costs of reimbursable services provided under this Agreement. For each subcontract in excess of \$2,500, the Contractor shall require the subcontractor to agree to these record keeping provisions. If Contractor is requested to disclose any books, documents or records relevant to their Agreement for the purpose of an audit or investigation by any government agency, Contractor shall immediately notify Agency of the nature and scope of the request and shall make available to Agency all books, documents and records relevant to the request.
2. Pursuant to R.C. section 9.23, if \$25,000 is disbursed pursuant to this Agreement in a lump sum, or \$75,000 is disbursed to Contractor from governmental entities over the course of the state fiscal year, then each of the following terms shall apply:
 - a. The minimum percentage of money that is to be expended on the Contractor's direct costs shall be 100%. Direct costs are defined as those costs associated with providing services that directly benefit a patient, client or the public. Typical direct costs include, but are not limited to: compensation of employees for the time devoted to the performance of the Agreement; cost of materials or supplies acquired, consumed or expended for the purpose of the Agreement; equipment and other capital expenditures specified in the Agreement; and travel expenses incurred to carry out the Agreement.
 - b. Contractor shall keep current and accurate records of Contractor's expenditures on direct costs to support the receipt and expenditure of monies under this Agreement.
 - c. Contractor is subject to the financial review, audit report and other financial compliance requirements established in R.C. section 9.234 and rules adopted thereunder.

3. All provisions under this section survive the expiration or termination of this Agreement.

SECTION J. CONFLICTS OF INTEREST AND ETHICS AND LEGAL COMPLIANCE

1. No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is in compatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.
2. Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to Agency in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless Agency shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
3. Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws and Executive Order No. 2007-01S. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws and Executive Order. The Governor's Executive Orders may be found by
accessing the following website:
<http://governor.ohio.gov/GovernorsOffice/ExecutiveOrdersDirectives/tabid/105/Default.aspx>.
4. Contractor represents and warrants that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. Section 3517.13.
5. Contractor represents and warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. Section 9.24. If this warranty is found to be false, this Agreement is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Agreement.
6. Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either O.R.C. Section 153.02 or O.R.C. Section 125.25. If this representation and warranty is found to be false, this Agreement is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Agreement.
7. Contractor hereby represents and warrants to Agency that it has not provided any material assistance, as that term is defined in O.R.C. Section 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Contractor further represents and warrants that it has provided or will provide such Declaration to Agency prior to execution of this Agreement. If these representations and warranties are found to be false, this Agreement is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Agreement.
8. Contractor represents and warrants that neither it nor any of its employees or agents are excluded from participation under any Federal health care program, as defined under 42 U.S.C. Section 1320a-7b(D), for the provision of items or services for which payment may be made under a Federal health care program; Contractor has not arranged or contracted (by employment or otherwise) with any employee, contractor or agent that Contractor knows is excluded from participation in any Federal health care program, and no final adverse action, as defined under 42

USC Section 1320a-7e(g) has occurred or is pending against Contractor or to its knowledge against any employee contractor or agent engaged to provide items or services under this Agreement (collectively, "Exclusions/Adverse Actions"). Contractor shall notify Agency of any Exclusions/Adverse Actions within five (5) business days of its learning of such Exclusions/Adverse Actions.

9. Contractor shall comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.
10. Contractor warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of Agency, to perform substantially identical work for the State of Ohio such that the product contemplated hereunder duplicates the work called for by the other agreements.
11. Contractor represents and warrants that neither it nor any of its employees or agents has been convicted of any offense set forth in Section 5123.081(E) of the Ohio Revised Code.
12. Contractor affirms that neither it nor any of its employees or agents is presently holding a civil service position with the State of Ohio. The Contractor (if an individual) declines a civil service position for the reason(s) identified below.
 - compensation and benefits is inadequate
 - not interested in benefits
 - not interested in civil service appointment
 - other

SECTION K. NONDISCRIMINATION

1. Pursuant to O.R.C. Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, national origin, veteran status, or disability against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement.
2. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, national origin, veteran status or disability.
3. Pursuant to Ohio Revised Code Section 125.111, Contractor shall maintain a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Department of Administrative Services.
4. Contractor shall not discriminate in the provision of services on account of race, color, religion, sex, age, natural origin, veteran status or disability.

SECTION L. LIABILITY

1. Contractor agrees to indemnify and to hold Agency and the State of Ohio harmless and immune from any and all claims, costs and liabilities for injury or damages arising from this Agreement which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint venturers while acting under this Agreement. Such claims shall include any claims made under the Fair Labor

Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.

2. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.
3. Contractor shall purchase and maintain comprehensive general and professional liability insurance each in the minimum amount of \$1,000,000 per occurrence. Upon request, Contractor shall furnish Agency with a certificate of coverage.

SECTION M. COMPLIANCE WITH LAWS

1. Contractor, in the execution of duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

SECTION N. CONFIDENTIALITY

1. Contractor agrees that all data, reports and information received from Agency shall be used only for the services to be provided under this Agreement. Contractor agrees that all discussions with Agency personnel and all reports prepared by Contractor are confidential. Contractor agrees to maintain the confidentiality of all such information and will not release such information without the prior written authorization of Agency.
2. Contractor IS a "business associate" pursuant to the definition under the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder specifically 45CFR160.03. If Contractor is a business associate then Contractor shall comply with Addendum A.
3. All provisions under this section survive the expiration or termination of this Agreement.

SECTION O. ENTIRE AGREEMENT/WAIVER

1. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.
2. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
3. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

SECTION P. NOTICES

1. All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon mailing and shall be sent to the addresses set forth below:

SECTION Q. SEVERABILITY

1. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

SECTION R. CONTROLLING LAW

1. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Agreement and/or performance thereunder.

SECTION S. SUCCESSORS AND ASSIGNS

1. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Contractor, without the prior written consent of Agency.

SECTION T. ACCESS TO PREMISES

1. Contractor acknowledges that all packages and bags brought into or taken from Agency premises may be subject to inspection by security, supervisory and management personnel. Video surveillance may also be used to assist in the protection of individuals, staff and property.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, as of the day and year first written above.

[Name]
Ohio Department of Developmental Disabilities
Director

[Name]
[Contractor Name]
[Title]

By: _____

By: _____

Date: _____

Date: _____

[Name]
Ohio Department of Developmental Disabilities
Deputy Director

[Name]
Ohio Department of Developmental Disabilities
Superintendent (if applicable)

By: _____

By: _____

Date: _____

Date: _____