

CONTRACTOR

«CONTRACTOR NAME»

Contract No.

«Contract Number»

NON-EXCLUSIVE CONTRACT FOR [PRODUCTS OR] PROFESSIONAL SERVICES

This Contract, made and entered into on this «date», by and between the LOS ANGELES COUNTY CHILDREN AND FAMILIES FIRST - PROPOSITION 10 COMMISSION (aka FIRST 5 LA) whose address is 750 North Alameda Street, Third Floor, Los Angeles, California 90012, hereinafter referred to as the "COMMISSION" and the «contractor name» whose address is «contractor address» hereinafter referred to as the "CONSULTANT." All of CONSULTANT'S activities and services to be provided hereunder will be coordinated and overseen by COMMISSION staff as designated below.

The intent of this contract is to provide the COMMISSION with an expedited means of procuring specific products and/or services as-needed and at the COMMISSION'S sole discretion. This contract is for the convenience of the COMMISSION and is a "Non-exclusive" contract. Therefore, the COMMISSION may obtain the product/service specified herein, or a similar product/service from sources other than the CONTRACTOR and without prior notice to, or recourse by, the CONTRACTOR. This contract merely specifies the terms under which the CONTRACTOR shall supply the product/service specified herein to the COMMISSION when the COMMISSION submits an order for the same and does not guarantee the CONTRACTOR any specific amount or frequency of business, orders or usage. Any orders by COMMISSION will comply with the payment terms defined under Section IV and will be contingent on an approved scope of work with defined total number of hours necessary for the completion of project. Such an order shall not exceed the approved scope of work and price without the advance written consent of an authorized representative of the COMMISSION. The COMMISSION shall not be liable for any expense incurred by the CONTRACTOR or any third party without prior written approval.

The COMMISSION engages the CONSULTANT to perform professional services for a project known and described as [insert project title], Project No. [Insert contract number], hereinafter called the "Project".

I. SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following professional services to COMMISSION standards and in accordance with the degree of care and skill that a registered professional in California would exercise under similar conditions:

- A. The CONSULTANT shall [Insert description]. See Exhibit "A" for a detailed scope of work.
- B. The CONSULTANT has assigned [Insert Project Manager's name] as the Project Manager for this Contract. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to the COMMISSION for approval.
- C. The CONSULTANT shall prepare and submit a detailed status report of the project, upon the request of the COMMISSION.

- D. The CONSULTANT shall follow and comply with contractual documentation requirements, as directed by the COMMISSION.
- E. The CONSULTANT shall submit all final documents in both hard copy and electronic format. Documents shall be Microsoft Office compatible. The software version used shall be compatible to current COMMISSION standards. Other support documents shall be submitted in hard copy only.

II. PERIOD OF SERVICES

The CONSULTANT shall complete all services within [Insert days in number format] calendar days of the "Notice to Proceed" date. In the event delays are experienced beyond the control of the CONSULTANT, the schedule may be revised as mutually agreed upon in writing by the COMMISSION and the CONSULTANT.

III. EXHIBITS

In the event of any conflict in the definition or interpretation of any word, responsibility, service, schedule, or contents of a deliverable product between the Contract and Exhibits, or among Exhibits, said conflict or inconsistency shall be resolved by giving precedence first to this Contract, and then to the Exhibits according to the following priority:

- Exhibit A SCOPE OF WORK
- Exhibit B BUDGET FORMS
- Exhibit C ALL DOCUMENTS IN REQUIRED DOCUMENTS LIST
- Exhibit D INVOICE FORM
- Exhibit E STATUS REPORT(S)

This Contract and the Exhibits hereto, together with the CONSULTANT'S proposal constitute the complete and exclusive statement of understanding between the parties that supersedes all previous Contracts, written or oral, and all other communications between the parties relating to the subject matter of this Contract. No amendment, promise, or Contract between the parties is valid unless the same is in writing executed by both parties.

IV. CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT is [select payment method and delete the rest] (**payment by installments**) (**one lump sum**) or (**hourly not to exceed rate**). Total compensation for the services performed shall (be the sum of \$[Insert amount]) or (not exceed \$[insert amount]) plus approved adjustments. (This fee includes an allowance of \$[Insert amount] for reimbursable expenses, which in no event will ever be more than actual cost.)

- B. The COMMISSION shall pay the CONSULTANT in [installments, one lump sum, or hourly] based upon monthly progress reports and detailed invoices submitted by the CONSULTANT subject to the following limitations:
1. Prior to approval of the preliminary design ([insert percentage in number format] % plans), payments to the CONSULTANT shall not exceed [insert percentage in number format] % of the total CONTRACT amount.
 2. Prior to approval of the final design documents, payments to the CONSULTANTS shall not exceed [insert percentage in number format] % of the total CONTRACT amount. The final approval and payment will be made within a reasonable period of time regardless of the project construction schedule.
 3. If the scope of work of this CONTRACT includes the preparation of studies, design concepts, or other investigations, progress payments shall not exceed [insert percentage in number format] % of the total CONTRACT amount prior to submittal of the final report deliverables.
 4. (Payment for reimbursable expenses shall be made during all phases based on actual expenses.)
- C. The COMMISSION at its discretion may, by written notification, waive the above limitations.
- D. The COMMISSION shall make payments to the CONSULTANT within thirty (30) days after receipt of the progress report and detailed invoice.

If CONTRA does not comply with the timeframe set forth in this Section, VENDOR will be considered out of compliance and may be subject to sanctions including but not limited to a penalty not to exceed five percent (5%) of each outstanding invoice.

V. INDEPENDENT CONTRACTOR

The COMMISSION shall not be responsible for withholding taxes with respect to the CONSULTANT compensation hereunder. The CONSULTANT shall have no claim against the COMMISSION hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

VI. SUBCONTRACTORS

COMMISSION approves CONSULTANT'S use of subcontractors to carry out its obligations under this Contract as specified as in Exhibit A.

No performance of this Contract or any portion may be assigned by CONSULTANT without the written consent of the COMMISSION. Any attempt by the CONSULTANT to assign performance of any of the terms of this Contract, in whole or in part, without said consent shall be null and void and shall constitute a breach of the terms of this Contract. In the event of such a breach, this Contract may be terminated. CONSULTANT shall submit a list of subcontractors to the COMMISSION for written approval prior to subcontractor performing any work hereunder.

A function proposed by CONSULTANT may be carried out under subcontracts; however, CONSULTANT may not delegate its duties or obligations, nor assign its rights hereunder, either in whole or in part, without the prior written consent of COMMISSION, or their designee. Any such attempt at delegation or assignment without prior written consent shall be void. Any change whatsoever in the corporate structure of CONSULTANT, the governing body of CONSULTANT, the management of CONSULTANT, or the transfer of assets of CONSULTANT shall be deemed an assignment of benefits under the terms of this Contract requiring COMMISSION approval. No subcontract shall alter in any way any legal responsibility of CONSULTANT to COMMISSION.

CONSULTANT must submit a copy of the memorandum of understanding for each subcontractor to the COMMISSION for prior review and approval.

VII. LIMITATION OF COMMISSION OBLIGATIONS DUE TO LACK OF FUNDS

COMMISSION'S payment obligations pursuant to this Contract are payable solely from funds appropriated by COMMISSION for the purpose of this Contract. CONSULTANT shall have no recourse to any other funds allocated to or by COMMISSION. CONSULTANT acknowledges that the funding for this Contract is limited to the term of the Contract only, with no future funding promised or guaranteed.

The COMMISSION and the CONSULTANT expressly agree that full funding for the Contract over the entire Term of Contract is contingent on the continuing collection of tax revenues pursuant to Proposition 10 and the continuing allocation of Los Angeles County's share of those revenues to the COMMISSION. In the event of any repeal, amendment, interpretation, or invalidation of any provision of Proposition 10 that has the effect of reducing or eliminating the COMMISSION'S receipt of Proposition 10 tax revenues, or any other unexpected material decline in the COMMISSION'S revenues, the COMMISSION may reduce or eliminate funding for current or subsequent Contract years at a level that is generally proportionate to the reduction.

VIII. LIABILITY AND INDEMNIFICATION

To the full extent permitted by law, CONSULTANT shall defend, indemnify and hold harmless COMMISSION, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by CONSULTANT, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever incurred in relation to, as a consequence of or arising out of or in any way attributable in whole or in part to CONSULTANT'S performance of this Contract including, without limitation, matters of active or passive negligence on the part of the COMMISSION. This duty to indemnify and defend shall not extend to such losses, actions, or damages arising out of or caused by COMMISSION'S sole negligence as determined by a court of competent jurisdiction.

IX. INSURANCE

Without limiting CONSULTANT'S duty to indemnify COMMISSION during The term of this Contract, CONSULTANT shall provide and maintain at its own expense the following programs of insurance throughout the term of this Contract. Such programs and evidence of insurance shall be issued by insurers admitted to conduct business in the State of California, with a minimum A.M. Best's rating of A: VII unless otherwise approved in writing as satisfactory to the COMMISSION. Certificates or other evidence of insurance coverage and copy(ies) of additional insured endorsement(s) and/or loss payee endorsement(s), as applicable, shall be delivered to COMMISSION at the address specified in Section XIV **prior to the commencement of work** under this Contract. Each policy of insurance shall provide that coverage will not be materially modified, terminated, or non-renewed except after thirty (30) days prior written notice has been given to the COMMISSION.

Notwithstanding any other provisions of this Agreement, failure by CONSULTANT to maintain the required insurance shall constitute a breach of this Contract and COMMISSION may immediately terminate or suspend this Contract as a result, or secure alternate insurance at CONSULTANT'S expense. CONSULTANT shall ensure that subcontractors comply with all insurance requirements described in this Section.

It is specifically agreed by the Parties that this Section IX shall supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs this Section IX. Nothing in this Contract is to be interpreted as limiting the application of insurance coverage as required herein. All insurance coverage and limits provided by CONSULTANT and its subcontractors shall apply to the full extent of the available and applicable policies. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance policy. Specific reference to a given coverage feature is for purpose of clarification only and is not intended by any party to be all inclusive, or to the exclusion of any other coverage, or a waiver of any type.

CONSULTANT'S liability insurance shall be primary and non-contributory. All coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion on any policy.

"Los Angeles County Children and Families First – Proposition 10 Commission" (or if abbreviated, **"LA Cty Prop 10 Commn."**), its officers, agents, consultants and employees are to be included as additional insureds but only with respect to liability arising out of CONSULTANT'S ongoing operations performed for COMMISSION.

CONSULTANT and subcontractors shall provide policies of liability insurance of at least the following coverages and limits:

A. Commercial General Liability Insurance

Such insurance shall be written on a commercial general liability form with minimum limits of one million dollars (\$1,000,000) each occurrence and two million

dollars (\$2,000,000) in the aggregate. Coverage may be on an occurrence or claims-made basis. If written on a Claims Made form, the CONSULTANT must purchase an extended two-year reporting period commencing upon termination or cancellation of the insurance policy.

B. Business Auto Liability

Primary coverage shall be provided on ISA Business Auto Coverage forms for all owned, non-owned, and hired vehicles with a combined single limit of not less than one million dollars (\$1,000,000) per accident. Automobile physical damage shall be required on an actual cash value basis for comprehensive and collision coverage with maximum deductibles of \$1,000 each accident for those vehicles funded by this Grant and for which the COMMISSION has an ownership interest. The COMMISSION shall be named as Loss Payee, as their interest may appear.

C. Workers Compensation Insurance

Such insurance shall be in an amount and form to meet all applicable requirements of the Labor Code of the State of California.

D. Professional Liability Insurance

Such insurance shall cover liability arising from any error, omission, or negligent or wrongful act of CONSULTANT or its employees, with a limit of liability of not less than one million dollars (\$1,000,000) per medical incident for medical malpractice liability, or of not less than one million dollars (\$1,000,000) per occurrence for all other types of professional liability. Only CONSULTANTS, who have a professional liability exposure relating to the work performed for COMMISSION under the terms of this contract, are required to provide evidence of Professional Liability coverage.

E. Property Insurance

Such insurance shall be required only in the event the Contract is providing funds for real property or personal property, including equipment and has an ownership interest in that property. Coverage on real and personal property shall be on a replacement cost basis, written on a Special Causes of Loss form including employee dishonesty coverage, with a deductible no greater than \$1,000 each occurrence. COMMISSION shall be named as Loss Payee, as their interest may appear.

F. Crime Coverage Insurance

Such insurance shall be in the amount not less than twenty-five thousand dollars (\$25,000) covering against loss of money, securities, or other property referred to hereunder which may result from employee dishonesty, forgery or alteration, theft, disappearance and destruction, computer fraud, burglary and robbery.

Evidence of Self Insurance

Legally adequate evidence of self-insurance meeting the approval of the COMMISSION'S Legal Counsel may be substituted for any coverage required above. CONSULTANT must submit a copy of the self-insured certificate issued by the State of California.

Waiver

The COMMISSION at its discretion may, by written notification, waive the above insurance requirements.

X. THE COMMISSION'S RESPONSIBILITIES

- A. The COMMISSION shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by the COMMISSION on any aspect of the work shall be directed to the project manager.
- B. The COMMISSION shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. The COMMISSION will keep the CONSULTANT advised concerning the progress of the COMMISSION'S review of the work. The CONSULTANT agrees that the COMMISSION'S inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or its sub-consultant(s).
- C. Unless included in the CONSULTANT'S Services as identified in Section I, the COMMISSION shall furnish the CONSULTANT gratis, the following information or services for this Project:
 1. One copy of data pertinent to the services. However, the CONSULTANT shall be responsible for searching the records and requesting specific information and independently verifying said information.
 2. Available COMMISSION data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.

XI. CONFLICT OF INTEREST

It shall be the responsibility of CONTRACTOR to abide by conflict of interest laws and regulations applicable to the CONTRACTOR under California law. CONTRACTOR acknowledges that he/she/it is acting as public official pursuant to this Contract and shall therefore avoid undertaking any activity or accepting any payment, employment or gift from any third party that could create a legal conflict of interest or the appearance of any such conflict. A conflict of interest exists when one has the opportunity to advance or protect one's own interest or private interest of others, with whom one has a relationship, in a way that is detrimental to the interest, or potentially harmful for the integrity or fundamental mission of the Commission. CONTRACTOR shall maintain the confidentiality of any confidential information obtained from the COMMISSION during

this Contract and shall not use such information for personal or commercial gain outside this Contract. By agreeing to this Contract and accepting financial compensation for services rendered hereunder, CONTRACTOR agrees that he/she/it may not subsequently solicit or accept employment or compensation under any program, grant or service that results from or arises out of the **[INITIATIVE OR PROJECT]**. During the term of this Contract and for one year thereafter, CONTRACTOR shall not knowingly solicit or accept employment and/or compensation from any First 5 LA collaborator or CONTRACTOR without the prior written consent of First 5 LA.

XII. TERMINATION

The COMMISSION, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by the CONSULTANT, upon fourteen (14) days written notice delivered to CONSULTANT personally or by certified mail at [INSERT ADDRESS].

Immediately after receiving such notice, the CONSULTANT shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONSULTANT shall appraise the services it has completed and submit an appraisal to the COMMISSION for evaluation. The COMMISSION shall have the right to inspect the CONSULTANT'S work to appraise the services completed.

CONSULTANT shall deliver to the COMMISSION all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by the COMMISSION.

In the event of such termination or abandonment, the CONSULTANT shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONSULTANT and the COMMISSION. However, in no event shall the fee exceed that set forth in Section III of the attached CONTRACT.

The COMMISSION shall make final payment within sixty (60) days after the CONSULTANT has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, the COMMISSION shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work according to the provisions and agreements herein.

XIII. ATTORNEY FEES

The prevailing party in any legal action brought due to a material breach by the other, or to enforce the terms of this Contract, shall be entitled to recover its costs of suit including, without limitation, reasonable attorneys fees.

XIV. NOTICES

Any notices, reports, or invoices required by this Contract shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during CONSULTANT'S and COMMISSION'S regular business hours or by facsimile before or during CONSULTANT'S regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, addressed as set forth below, or to such other addresses as the Parties may, from time to time, designate in writing.

Notices to CONSULTANT

Notices will be sent to CONSULTANT addressed as follows:

Primary Contact Person	Telephone	E-mail
Fiscal Contact Person	Telephone	E-mail
CONSULTANT Name		
CONSULTANT Address		

Notices to COMMISSION

Notices sent to COMMISSION shall be addressed as follows:

FIRST 5 LA
Attention: [DESIGNATED DIRECTOR]
750 North Alameda Street, Suite 300
Los Angeles, California 90012

With a copy of any Contract changes or amendments to:

Craig A. Steele
Richards, Watson & Gershon
355 S. Grand Avenue, 40th Floor
Los Angeles, California 90071

Notice of Delays

When either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of any provisions of this Contract, that party shall, within three (3) business days, give written notice, including relevant information, to the other party.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

XV.SIGNATURES

In WITNESS WHEREOF, this Contract has been executed as of the date set forth above by the respective duly authorized signatories below.

CONSULTANT

The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.

«Authorized_Signatory_Title»
«Contractor_Name»

Date

COMMISSION

Approved as to form:

Craig A. Steele
Legal Counsel

Date

Agreed & Accepted:

Evelyn V. Martinez
Executive Director
Los Angeles County Children and Families First
Proposition 10 Commission (aka First 5 LA)

Date