CONTRACT

BEST PRESCHOOL

Contract No. 00600
CONTRACT

This Contract is dated «Month» «Day», «Year» (“effective date”), and between the LOS ANGELES COUNTY CHILDREN AND FAMILIES FIRST - PROPOSITION 10 COMMISSION (aka FIRST 5 LA), whose address is 750 North Alameda Street, Suite 300, Los Angeles, California 90012 (“COMMISSION”) and Best Preschool, whose address is 227 Spring Street, Los Angeles, CA 90012 (“CONTRACTOR”).

RECITALS

A. COMMISSION Objectives:

1. Vision. COMMISSION is committed to creating a future throughout Los Angeles County’s diverse communities where all young children are born healthy and raised in a loving and nurturing environment so that they grow up healthy, are eager to learn and reach their full potential.

2. Mission. COMMISSION will work to make significant and measurable progress towards its vision by increasing the number of children from prenatal through age five (5) who are physically and emotionally healthy, safe and ready to learn.

3. Values. COMMISSION intends to fulfill its vision and mission by shaping its efforts around five (5) core values:

   a. Families. COMMISSION acknowledges and amplifies the voice of families so that they have the information, resources and opportunities to raise their children successfully.

   b. Communities. COMMISSION strengthens communities by enhancing their ability to support families.

   c. Results Focus. COMMISSION is accountable for defining results for young children and for our success in achieving them.

   d. Learning. COMMISSION is open to new ideas and to modify its approaches based on what it learns.
Advocacy. COMMISSION uses its unique role to build public support for policies and programs that benefit children prenatal through age five (5) and their families.

4. Role of COMMISSION. COMMISSION will continue to serve the following roles:

a. Community Partner. COMMISSION operates as a community partner to complement, build, and strengthen the efforts and activities of others to have a greater impact on the lives of children and families.

b. Trendsetter and Leader. COMMISSION serves as a trendsetter and leader that identifies, funds and replicates innovation, as well as proven solutions to long-standing problems that affect children and families.

c. Change Agent. COMMISSION serves as a change agent to help mobilize the broader community to advocate for expectant parents, young children, and their families.

d. Convener and Facilitator. COMMISSION serves as a convener and facilitator to bring together individuals, agencies and organizations with common goals.

e. Catalyst. COMMISSION serves as a catalyst to promote the sustainability of effective programs for young children and their families.

The parties agree as follows:

I. SCOPE OF WORK

CONTRACTOR shall perform the work and provide the deliverables as more particularly described in the Performance Matrix, attached as Exhibit A, and the Payment Schedule, attached as Exhibit C. Deliverables provided by CONTRACTOR to COMMISSION pursuant to this Contract are subject to COMMISSION’s approval and final acceptance, including review and approval by COMMISSION’s Research and Evaluation Quality Assurance Committee, as detailed in the Quality Assurance Principles and Dispute Resolution Process, attached as Exhibit D. COMMISSION may amend the Performance Matrix throughout the term of this Contract.

II. PERSONNEL
CONTRACTOR has, or will secure at its own expense, all personnel required to perform the work and provide the deliverables required under this Contract. All of the work required under this Contract shall be performed by CONTRACTOR or under its supervision, and all personnel engaged in the work shall be qualified to perform the work. CONTRACTOR's work performed pursuant to this Contract shall be directed by Best Preschool, and CONTRACTOR shall not assign another to direct CONTRACTOR's performance of this Contract without COMMISSION’s prior written approval.

III. TIME OF PERFORMANCE

CONTRACTOR shall commence the work required under this Contract on the effective date of this Contract, as set forth in the introductory clause. CONTRACTOR shall perform the work and provide the deliverables within the timelines indicated in Exhibits A and C.

IV. TERM OF CONTRACT

The term of this Contract shall be from the effective date, as set forth in the introductory clause, through June 30, 2014 ("expiration date"), unless sooner terminated pursuant to this Contract. COMMISSION may revise the term of this Contract prior to final execution of this Contract by all parties.

V. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. As full compensation for the deliverables provided under this Contract, and subject to a total not-to-exceed amount of ONE MILLION ONE HUNDRED THOUSAND DOLLARS AND TEN CENTS ($1,100,000.10), COMMISSION shall pay CONTRACTOR per COMMISSION approved deliverable in accordance with rates set forth in the Budget Forms, attached as Exhibit B, and in accordance with the payment terms set forth in Paragraph C of this Section V. If CONTRACTOR partially achieves a deliverable required under this Contract, COMMISSION, in its sole discretion, may pay a prorated portion of the fixed price for the deliverable if (i) COMMISSION approves the partial deliverable and (ii) the partial deliverable is useful to COMMISSION. If CONTRACTOR exceeds its budget in the performance of the work required under this Contract, CONTRACTOR shall, at no additional cost to COMMISSION, remain solely responsible for CONTRACTOR’s completion of the work and provision of the deliverables required under this Contract to COMMISSION. CONTRACTOR assumes all risk from contract or project delays. The fixed price per deliverable includes payment of all
taxes and insurance, as well as indirect costs, overhead, materials and supplies. COMMISSION shall not withhold federal or state payroll and other taxes, or other deductions from payments made to CONTRACTOR.

B. Additional Work. COMMISSION shall not allow any claims for additional work performed by CONTRACTOR unless the additional work is authorized by COMMISSION in writing prior to the performance of the additional work or the incurrence of additional expenses. Any additional work authorized by COMMISSION shall be compensated at a rate mutually agreed to by the parties.

C. Method of Payment. CONTRACTOR shall submit to COMMISSION invoices for COMMISSION approved deliverables or tasks provided to COMMISSION by CONTRACTOR pursuant to this Contract in accordance with the schedule set forth in Exhibit C and utilizing an invoice form provided to CONTRACTOR by COMMISSION. All properly completed invoices submitted by CONTRACTOR are collectively incorporated into this Contract as Exhibit E upon COMMISSION’s receipt of each invoice. CONTRACTOR shall address invoices to the Finance Department at the address specified in Section XXIV. The invoices shall describe in detail tasks completed and COMMISSION approved deliverables provided by CONTRACTOR during the prior month. If there are any errors contained in any invoice submitted to COMMISSION, CONTRACTOR shall describe and explain the error in CONTRACTOR’s subsequent invoice submitted to COMMISSION. COMMISSION shall review the invoices and notify CONTRACTOR within ten (10) business days of any disputed amounts. COMMISSION shall pay CONTRACTOR all undisputed invoice amounts within thirty (30) calendar days of COMMISSION’s receipt of an invoice timely submitted in accordance with the schedule set forth in Exhibit C. COMMISSION shall make checks payable to Best Preschool. If CONTRACTOR fails to timely submit a properly completed invoice in accordance with schedule set forth in Exhibit C, COMMISSION shall process the late invoice in the subsequent month from COMMISSION’s date of receipt and may, in its sole option, be entitled to a sum not to exceed five percent (5%) of the undisputed portion of the invoice as liquidated damages. COMMISSION shall make final payment in accordance with the provisions of this Section V and upon CONTRACTOR’s satisfactory performance of all work and provision of all deliverables. In the event COMMISSION reasonably believes COMMISSION has overpaid CONTRACTOR, COMMISSION may seek a financial accounting from
CONTRACTOR and avail itself of all legal remedies to seek compliance and the repayment of any amounts overpaid.

VI. EXPENDITURES BY CONTRACTOR

A. CONTRACTOR shall make expenditures in the performance of this Contract in accordance with Exhibits A and B.

B. COMMISSION may modify the work and deliverables required under Exhibits A, B and C.

C. CONTRACTOR shall obtain COMMISSION’s prior written approval regarding any modification to Exhibit B. CONTRACTOR shall submit budget modification requests to the designated COMMISSION staff, as specified in Paragraph A of Section XVII, on or before the first (1st) of the month prior to the month in which CONTRACTOR anticipates incurring the modified expenses. Budget modifications are not permitted during the first two (2) months or the last quarter of the term of this Contract. Budget modifications require COMMISSION’s prior approval. COMMISSION’s approval of a budget modification shall be contingent on CONTRACTOR’s timely submission of documentation required by COMMISSION.

D. CONTRACTOR shall restrict its use of payments made by COMMISSION to CONTRACTOR under Section V of this Contract to CONTRACTOR’s performance of the work and provision of the deliverables described in Exhibits A and C. CONTRACTOR shall only use the payments to supplement existing levels of service and not to fund existing levels of service. In no event shall CONTRACTOR or its officers, employees, agents, subcontractors or assignees supplant state, county, local or other governmental general fund money with COMMISSION payments for any purpose.

VII. EXHIBITS

The following exhibits constitute a part of this Contract and are incorporated into this Contract by this reference:

Exhibit A PERFORMANCE MATRIX
Exhibit B BUDGET FORMS
Exhibit C PAYMENT SCHEDULE
Exhibit D QUALITY ASSURANCE PRINCIPLES AND DISPUTE RESOLUTION PROCESS

Exhibit F COMPLIANCE GUIDELINES

The following exhibits constitute a part of this Contract and are incorporated into this Contract upon receipt by COMMISSION from CONTRACTOR:

Exhibit E INVOICE(S)

If any inconsistency exists or arises between a provision of this Contract and a provision of any exhibit, the provisions of this Contract shall control.

VIII. INDEPENDENT CONTRACTOR

CONTRACTOR is, and shall at all times remain as to COMMISSION, a wholly independent contractor. CONTRACTOR shall have no power to incur any debt, obligation, or liability on behalf of COMMISSION. Neither COMMISSION nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as set forth in this Contract. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of COMMISSION. CONTRACTOR agrees to pay all required taxes on amounts paid to CONTRACTOR under this Contract, and to indemnify and hold COMMISSION harmless from any and all taxes, assessments, penalties, and interest asserted against COMMISSION by reason of the independent contractor relationship created by this Contract. CONTRACTOR shall fully comply with the workers’ compensation law regarding CONTRACTOR and CONTRACTOR’s employees. CONTRACTOR shall indemnify and hold COMMISSION harmless from any failure of CONTRACTOR to comply with applicable workers’ compensation laws. COMMISSION may offset against the amount of any fees due to CONTRACTOR under this Contract any amount due to COMMISSION from CONTRACTOR as a result of CONTRACTOR's failure to promptly pay to COMMISSION any reimbursement or indemnification arising under this Section VIII.

IX. COLLECTION AND EVALUATION OF DATA AND INFORMATION

A. If CONTRACTOR’s performance of work under this Contract is, at COMMISSION’s direction, strictly limited to gathering data and information regarding one (1) or more of COMMISSION’s funding initiatives, evaluating the data and information, and reporting to COMMISSION its conclusions and recommendations arising out of
that collection and evaluation process, then the following limitations shall apply to CONTRACTOR’s use of the data and information in addition to any other conditions and limitations imposed by this Contract:

1. The data and information collected by CONTRACTOR, in whatever form, shall be COMMISSION’s sole property. CONTRACTOR shall maintain the data and information on COMMISSION’s behalf in form and substance consistent with accepted research practices throughout the term of this Contract. Within thirty (30) calendar days of the expiration or termination of this Contract, CONTRACTOR shall deliver all original collected data and information to COMMISSION’s Executive Director and the designated COMMISSION staff, as specified in Paragraph A of Section XVII, in hard copy and electronic formats. [The data and information collected by CONTRACTOR, in whatever form, shall be the joint property of the parties. To facilitate this joint ownership, CONTRACTOR shall provide data to COMMISSION at time intervals determined by the parties to be appropriate for CONTRACTOR’s performance of work under this Contract. COMMISSION may internally use research findings and results generated from the data and information for planning purposes prior to CONTRACTOR’s publication of the findings and results. Neither COMMISSION nor CONTRACTOR shall disseminate the data and information beyond its internal staff without the other party’s consent. Within thirty (30) calendar days of the expiration or termination of this Contract, CONTRACTOR shall deliver a copy of all collected data and information to COMMISSION’s Executive Director and the designated COMMISSION staff in hard copy and electronic formats.]

2. COMMISSION, in its sole discretion, shall determine the timing, format and manner of the dissemination of the data and information and any report of CONTRACTOR’s results, conclusions or recommendations. COMMISSION shall attribute the collection and evaluation of the data and information to CONTRACTOR upon dissemination. CONTRACTOR shall not disseminate the data and information without COMMISSION’s Executive Director’s, or his or her designee’s, prior written consent. CONTRACTOR shall request COMMISSION’s consent to disseminate the data and information in writing not less than ten (10) business days in advance of the dissemination.
CONTRACTOR’s request shall state the specific purpose for which consent is being sought. If CONTRACTOR desires to use the data and information for a purpose that will result in profit or financial compensation to CONTRACTOR, or any party related to CONTRACTOR, CONTRACTOR shall submit a written request for consent to COMMISSION. In such cases, COMMISSION may enter into a royalty, licensing or reimbursement agreement with CONTRACTOR, as appropriate, prior to giving its consent, to compensate or reimburse COMMISSION for the use of its data and information. COMMISSION shall not seek compensation or reimbursement for the permitted use of its data and information for purely academic or scientific purposes. In published material arising out of academic or scientific activities, CONTRACTOR shall acknowledge the participation and funding with “Funded without endorsement, by First 5 LA” and shall provide COMMISSION with two (2) copies of the published material. [The parties shall determine the timing, format and manner of the dissemination of the data and information and any report of CONTRACTOR’s results, conclusions or recommendations. COMMISSION shall attribute the collection and evaluation of the data and information to CONTRACTOR upon dissemination. The parties may enter into a royalty, licensing or reimbursement agreement, as appropriate, for either party’s use of the data and information. In published material arising out of academic or scientific activities, CONTRACTOR shall acknowledge the participation and funding with “Funded without endorsement, by First 5 LA” and shall provide COMMISSION with two (2) copies of the published material.]

3. CONTRACTOR shall implement and comply with adequate procedures to maintain the confidentiality of the data and information.

4. To the extent permitted by state and federal law, including the Health Insurance Portability and Accountability Act of 1996 (“HIPPA”) (Pub. L. 104-191.), CONTRACTOR shall provide COMMISSION with all collected raw data and information, including individual identifiers, and, upon COMMISSION’s request, permit COMMISSION to review collected raw data and information at CONTRACTOR’s address specified in Section XXIV of this Contract.
5. CONTRACTOR shall comply with all applicable state and federal laws governing the gathering, use and protection of personal data and information.

6. If applicable, CONTRACTOR shall gather data and information in compliance with the requirements of HIPPA and Institutional Review Boards ("IRBs"), including obtaining informed consents. CONTRACTOR’s shall disclose in all informed consent forms used in the performance of this Contract that CONTRACTOR, to the extent permitted by state and federal law, will share data and information gathered pursuant to this Contract with COMMISSION.

X. PROPRIETARY RIGHTS

COMMISSION and CONTRACTOR agree that literary, artistic and intellectual works, including software, created by CONTRACTOR in the performance of this Contract are works made for hire. COMMISSION shall own the copyright in all works made for hire. CONTRACTOR shall not file an application for copyright registration of the works made for hire. [COMMISSION and CONTRACTOR agree that any copyright in literary, artistic and intellectual works, including software, created by CONTRACTOR in the performance of this Contract is jointly owned by the parties. Any licensing or transfer of the copyright of such works shall not be effective without the mutual consent of the parties.]

XI. PROMOTIONAL MATERIALS

If applicable to the performance of work under this Contract, CONTRACTOR shall prominently display all COMMISSION supplied promotional materials, such as educational posters, banners, brochures and fliers at project site(s). CONTRACTOR shall ensure that promotional materials, activities and publications developed in support of the project funded by this Contract conform to the formatting requirements outlined in COMMISSION’s Style Guide, including the appropriate display of COMMISSION’s logo and funding attribution.

XII. OWNERSHIP OF PERSONAL PROPERTY

All personal property purchased with compensation provided to CONTRACTOR from COMMISSION under this Contract shall become COMMISSION’s property upon the expiration or termination of this Contract, unless otherwise agreed to by COMMISSION.
XIII. CONFLICT OF INTEREST

CONTRACTOR shall comply with all applicable conflict of interest laws, including the Political Reform Act (Cal. Gov. Code, § 81000 et seq.) and California Government Code Section 1090. CONTRACTOR shall 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 also when CONTRACTOR has the opportunity to advance or protect CONTRACTOR’s own interest or private interest of others, with whom CONTRACTOR has a relationship, in a way that is detrimental to COMMISSION’s interest, or potentially harmful to COMMISSION’s integrity or fundamental mission. CONTRACTOR shall not provide technical assistance to any COMMISSION grantee, agency or collaborator with whom CONTRACTOR has a prior or existing business relationship. CONTRACTOR shall maintain the confidentiality of any confidential information obtained from COMMISSION during the term of this Contract and shall not use such information for personal or commercial gain outside of the scope of this Contract. CONTRACTOR shall not subsequently solicit or accept employment or compensation under any program, grant or service that results from or arises out of the SCHOOL READINESS INITIATIVE. During the term of this Contract and for one (1) year thereafter, CONTRACTOR shall not knowingly solicit or accept employment or compensation from any COMMISSION collaborator or contractor without COMMISSION’s prior written consent.

XIV. INFORMATION TECHNOLOGY REQUIREMENTS

A. If applicable to the performance of work or the provision of deliverables under this Contract, CONTRACTOR shall coordinate with COMMISSION’s Information Technology (“IT”) Department regarding the design, development, structure and implementation of IT components required under this Contract, including databases, documents and spreadsheets, and apply, as appropriate, the following IT specifications:

1. Hardware and software compatibility with industry hardware, software and security standards to allow adequate compatibility with COMMISSION’s infrastructure.

2. Open Data Base Connectivity (“ODBC”) compliant for data collection and dissemination purposes.

3. Ability to collect information at the client-level, as necessary.
4. Compatibility and ability to aggregate information in multiple ways: by initiatives, geographic boundaries, service types, program outcomes, and COMMISSION outcomes.

5. Ability to export to and import the data collected.

B. CONTRACTOR shall timely notify COMMISSION of any major problem with CONTRACTOR’s hardware or software that may impact CONTRACTOR’s performance of work or provision of deliverables under this Contract.

XV. INSURANCE

A. CONTRACTOR, at its own expense, shall obtain and maintain at all times during the term of this Contract the following policies of insurance with the minimum limits indicated below, unless otherwise approved in writing by COMMISSION’s Executive Director or designee:

1. Commercial General Liability coverage with minimum limits of one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the aggregate. Coverage shall be at least as broad as Insurance Services Office (ISO) Form GC 00 01.

2. Auto Liability coverage on ISA Business Auto Coverage forms for all owned, non-owned, and hired vehicles with a combined single minimum limit of one million dollars ($1,000,000) per accident. Coverage shall be as broad as Insurance Services Office (ISO) Form CA 00 01. For vehicles funded by this Contract that COMMISSION has an ownership interest in, automobile physical damage shall be required on an actual cash value basis for comprehensive and collision coverage with maximum deductibles of one thousand dollars ($1,000) per accident and COMMISSION shall be named as Loss Payee, as COMMISSION’s interest may appear.

3. Workers’ Compensation Insurance as required by the State of California and with minimum statutory limits and Employers’ Liability Insurance with a minimum limit of one million dollars ($1,000,000) per accident for bodily injury or disease.

4. Professional Liability coverage with a minimum limit of one million dollars ($1,000,000) per occurrence or claim and two million dollars ($2,000,000) in annual aggregate. If the policy is
on a claims-made basis, the retroactive date must be before the effective date of this Contract or the beginning of CONTRACTOR’s performance of work under this Contract. CONTRACTOR shall maintain the insurance for three (3) years after the completion of CONTRACTOR’s work under this Contract and if the coverage is cancelled or non-renewed and not placed with another claims-made policy with a retroactive date prior to the effective date of this Contract or the beginning of CONTRACTOR’s performance of work under this Contract, CONTRACTOR must purchase extending reporting coverage for a minimum of three (3) years after the completion of CONTRACTOR’s work under this Contract.

5. Property Liability coverage on real and personal property on a replacement cost basis, written on a Special Causes of Loss form, including earthquake and flood coverage, and with a maximum deductible of one thousand dollars ($1,000) per occurrence. COMMISSION shall be named as Loss Payee, as COMMISSION’s interest may appear.

6. Crime Liability coverage with a minimum limit of twenty-five thousand dollars ($25,000) covering loss of money, securities or other property as a result of employee dishonesty, forgery or alteration, theft, disappearance and destruction, computer fraud, burglary or robbery. COMMISSION shall be named as Loss Payee, as COMMISSION’s interest may appear.

B. The policies of insurance required under this Section XV shall be issued by insurers authorized to do business in the State of California, with a minimum A.M. Best’s Insurance rating of A:VII, unless otherwise approved in writing by COMMISSION’s Executive Director.

C. The Commercial General Liability and Auto Liability policies, are to contain or be endorsed to contain the “Los Angeles County Children and Families First – Proposition 10 Commission”, or if abbreviated, “LA Cty Prop 10 Commn.”, its officers, agents, consultants and employees as additional insureds with respect to liability and defense of claims arising out of work or operations performed by or on behalf of CONTRACTOR.

D. The Commercial General Liability and Auto Liability policies shall be or endorsed to be primary and non-contributing as respects the “Los Angeles County Children and Families First – Proposition 10 Commission”, or if abbreviated, “LA Cty Prop 10 Commn.”, its officers,
agents, consultants and employees. All insurance 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 of insurance.

E. No policies of insurance provided to comply with this Section XV shall prohibit CONTRACTOR, or CONTRACTOR’s employees or agents, from waiving the right of subrogation prior to a loss. CONTRACTOR waives any right of subrogation that CONTRACTOR or CONTRACTOR’s insurer may acquire against COMMISSION. CONTRACTOR shall obtain any endorsement that may be necessary to effect this waiver of subrogation. CONTRACTOR’s failure to provide COMMISSION with a waiver of subrogation endorsement from CONTRACTOR’s insurer(s) shall not relieve CONTRACTOR of its obligations under this Paragraph E.

F. The policies of insurance required under this Section XV shall be endorsed to state that should the policy be suspended, voided, modified, terminated, or non-renewed the insurer will endeavor to provide thirty (30) days’ prior written notice to COMMISSION. If the policies of insurance required under this Section XV are suspended, voided, modified, terminated or non-renewed, CONTRACTOR shall, within two (2) business days of notice from the insurer(s), notify COMMISSION by phone, fax or certified mail, return receipt requested of the suspension, voiding, modification, termination or non-renewal of the policies.

G. The requirements of specific coverage features or limits contained in this Section XV 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.

H. The requirements of this Section XV shall supersede all other sections and provisions of this Contract to the extent that any other section or provision conflicts with or impairs this Section XV.

I. All insurance coverage and limits provided by CONTRACTOR and available and applicable to this Contract shall apply to the fullest extent of the policies. Nothing in this Contract shall be interpreted as limiting the application of insurance coverage as required under this Section XV.
J. CONTRACTOR shall deliver certificates or other evidence of insurance coverage and copy(ies) of additional insured endorsement(s) and/or loss payee endorsement(s), as applicable, to COMMISSION at the address set forth in Section XXIV prior to CONTRACTOR’s performance of work under this Contract. Any actual or alleged failure on the part of COMMISSION or any other additional insured under these requirements to obtain evidence of insurance required under this Contract in no way waives any right or remedy of COMMISSION or any additional insured in this or any other regard.

K. CONTRACTOR may submit evidence of adequate self-insurance as a substitute for the policies of insurance required under this Section XV subject to the approval of COMMISSION’s Executive Director. CONTRACTOR shall submit to COMMISSION a copy of the self-insured certificate.

L. CONTRACTOR shall require all subcontractors performing work under this Contract to comply with all insurance requirements set forth in this Section XV. CONTRACTOR shall obtain certificates or other evidence of insurance coverage and copy(ies) of additional insured endorsement(s) and/or loss payee endorsement(s), as applicable, from all subcontractors and assumes all responsibility for ensuring that coverage is provided by subcontractors in conformity with the requirements of this Section XV.

M. CONTRACTOR’s failure to maintain the policies of insurance required under this Section XV shall constitute a breach of this Contract for which COMMISSION may terminate this Contract pursuant to Paragraph B of Section XXI of this Contract or secure alternate insurance at CONTRACTOR’s expense.

XVI. INDEMNIFICATION

A. Indemnity for Professional Liability. When the law establishes a professional standard of care for CONTRACTOR’s work, and to the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless COMMISSION, its officials, officers, employees, servants, designated volunteers and agents serving as independent contractors in the role of COMMISSION officials (collectively “Indemnitees”), from and against any liability, claim, damage, demand, suit, cause of action, proceeding, judgment, penalty, lien, loss, expense or cost of any kind, including reasonable fees of accountants, attorneys and other professionals, and all costs associated therewith (collectively, “damages”), whether actual, alleged or
threatened, arising out of, pertaining to, or relating to any negligent or wrongful act, error or omission of CONTRACTOR, its officers, agents, employees, subcontractors, or any entity or individual that CONTRACTOR bears legal liability thereof, in the performance of professional services under this Contract. CONTRACTOR shall defend Indemnitees in any action or actions filed in connection with any such damages with counsel of COMMISSION’s choice and shall pay all costs and expenses, including actual attorney’s fees, incurred in connection with such defense.

B. Indemnity for Other than Professional Liability. To the full extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless Indemnitees from and against any liability, claim, damage, demand, suit, cause of action, proceeding, judgment, penalty, lien, loss, expense or cost of any kind, including reasonable fees of accountants, attorneys and other professionals, and all costs associated therewith (collectively, “claims”), whether actual, alleged or threatened, arising out of, pertaining to, or relating to CONTRACTOR’s performance of this Contract, including the Indemnitees’ active or passive negligence, except for claims arising from the sole negligence, recklessness or willful misconduct of Indemnitees, as determined by final arbitration or court decision. CONTRACTOR shall defend Indemnitees in any action or actions filed in connection with any such claims with counsel of COMMISSION’s choice and shall pay all costs and expenses, including actual attorney’s fees, incurred in connection with such defense.

C. Survival. The terms of this Section XVI shall survive the expiration or termination of this Contract.

XVII. ACCOUNTABILITY

A. CONTRACTOR shall perform the work and provide the deliverables required under this Contract under the direction of COMMISSION’s Executive Director and COMMISSION staff (the “designated COMMISSION staff”). COMMISSION’s Executive Director or the designated COMMISSION staff shall ensure that CONTRACTOR performs the work and provides deliverables in compliance with the terms and timelines set forth in Exhibits A and C. CONTRACTOR shall copy all written communications related to the performance of work under this Contract to the designated COMMISSION staff. CONTRACTOR shall update the designated COMMISSION staff concerning the performance of work under this Contract, including, completing and submitting deliverables. If CONTRACTOR fails to
achieve a performance objective by the due date set forth in Exhibits A and C, CONTRACTOR shall notify the designated COMMISSION staff of CONTRACTOR’s failure within thirty (30) calendar days after the due date by submitting a written plan detailing the corrective action steps CONTRACTOR proposes to take to achieve the performance objective and the time period required for reporting and compliance (“Corrective Action Plan”), unless COMMISSION relieves CONTRACTOR of its obligations to submit a Corrective Action Plan. Corrective Action Plans are subject to COMMISSION’s approval. CONTRACTOR’s failure to timely submit a Corrective Action Plan required under this Paragraph A shall be deemed a material breach of this Contract. If CONTRACTOR fails to comply with an approved Corrective Action Plan, COMMISSION may place CONTRACTOR in non-compliant status in accordance with the Compliance Guidelines, attached as Exhibit F.

B. If applicable, COMMISSION shall make relevant, non-confidential and non-privileged information available and accessible to CONTRACTOR to assist in CONTRACTOR’s successful completion of the work and deliverables required under this Contract.

C. CONTRACTOR shall provide any deliverables required under Exhibits A and C to the designated COMMISSION staff within and by the timelines required under Exhibits A and C and with the highest degree of quality and service to COMMISSION.

D. CONTRACTOR shall conduct itself and its performance of work under this Contract in an ethical manner, with high integrity and with respect for the individuals involved in the performance of this Contract.

E. COMMISSION, in its sole discretion, may conduct internal evaluations and reviews of CONTRACTOR’s performance of work under this Contract. CONTRACTOR shall comply with COMMISSION’s inquiries and requests arising out of the evaluations. The evaluation(s) shall include, but are not limited to, contract compliance and the effectiveness of CONTRACTOR’s performance of the work and provision of deliverables required under Exhibits A and C and this Contract. COMMISSION may modify this Contract based on the results of the COMMISSION’s evaluation(s) and review(s).

F. If applicable to the performance of work under this Contract, CONTRACTOR shall comply with California Public Contract Code Section 3410, which requires preference to United States-grown
produce and United States-processed foods when there is a choice and it is economically feasible to do so.

G. If applicable to the performance of work under this Contract, CONTRACTOR shall comply with California Public Contract Code Section 22150, which requires the purchase of recycled products, instead of non-recycled products, whenever recycled products are available at the same or lesser total cost than non-recycled items. CONTRACTOR may give preference to suppliers of recycled products and may define the amount of this preference.

H. CONTRACTOR shall provide COMMISSION with timely notification of any major changes to CONTRACTOR’s financial system, primary funding sources or overall organization funding that may negatively impact CONTRACTOR’s ability to perform the work required under this Contract.

XVIII. INTERPRETATION AND JURISDICTION

This Contract, and any dispute arising from the relationship between the parties to this Contract, shall be governed by California law. Any dispute that arises under or relates to this Contract (whether contract, tort or both) shall be resolved in a state court in Los Angeles County, California.

XIX. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR shall conform to and abide by all applicable local, state and federal laws, regulations and ordinances, and licensing and accrediting authorities, in the performance of this Contract, including standards of professional ethics governing the use of assessment tools and standards governing the provision of services via the Internet and telephone and the dissemination of information and educational materials. CONTRACTOR’s failure to comply with such laws, ordinances, codes, regulations and authorities shall be deemed a material breach of this Grant Agreement.

XX. LIMITATION OF COMMISSION OBLIGATIONS DUE TO LACK OF FUNDS

A. COMMISSION’S payment obligations pursuant to this Contract are payable solely from funds appropriated by COMMISSION for the purpose of this Contract. CONTRACTOR shall have no recourse to any other funds allocated to or by COMMISSION. CONTRACTOR acknowledges that the funding for this Contract is limited to the term of the Contract only, with no future funding promised or guaranteed.
B. COMMISSION and CONTRACTOR expressly agree that full funding for this Contract over the term of this Contract is contingent on the continued collection of tax revenues pursuant to Proposition 10 and the continued allocation of Los Angeles County’s share of those revenues to 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 COMMISSION’s receipt of Proposition 10 tax revenues, or any other unexpected material decline in COMMISSION’s revenues, COMMISSION may reduce or eliminate funding for this Contract at a level that is generally proportionate to the elimination or reduction in the COMMISSION’s receipt of Proposition 10 tax revenues.

XXI. TERMINATION OF WORK

A. Termination without Cause. Either party may terminate this Contract by giving written notice to the other party at least thirty (30) calendar days before the termination is to be effective. COMMISSION shall compensate CONTRACTOR for work and deliverables satisfactorily rendered to the effective date of termination. Neither party shall have any other claim against the other party by reason of such termination.

B. Termination for Cause. Either party may terminate this Contract for cause, effective immediately, by giving written notice to the other party. For purposes of this Contract “cause” includes CONTRACTOR’s failure to perform the work or provide the deliverables described in Exhibits A and C and a party’s material breach of any provision of this Contract. COMMISSION shall compensate CONTRACTOR for work and deliverables satisfactorily rendered to the effective date of termination. Neither party shall have any other claim against the other party by reason of such termination.

XXII. ATTORNEY FEES

In any litigation, arbitration or other proceeding by which one party either seeks to enforce its rights under this Contract (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Contract, the prevailing party shall be awarded reasonable attorney fees, together with any costs or expenses, to resolve the dispute and to enforce the final judgment.

XXIII. RECORDS AND AUDITS
A. CONTRACTOR shall maintain a record for each item of tangible real or personal property of a value in excess of five hundred dollars ($500.00) acquired pursuant to this Contract. The records shall include the model number, serial number, legal description (if applicable), cost, invoice or receipt, and date acquired.

B. CONTRACTOR shall maintain notes, business records, and working papers (collectively “records”) on file during the term of this Contract and for a period of not less than four (4) years following the expiration or termination of this Contract. COMMISSION may, at any time during CONTRACTOR’s business hours, and upon reasonable notice to CONTRACTOR, (i) conduct site visits to evaluate, audit, inspect and monitor CONTRACTOR’s facilities, program operations and the records maintained in connection with this Contract or (ii) audit and examine the records and require supporting documentation, such as employee timesheets and invoices, to substantiate CONTRACTOR’s invoices. COMMISSION may, upon seven (7) days’ advance written notice to CONTRACTOR, inspect and copy the records. The terms of this Section XXV shall survive the expiration or termination of this Contract for four (4) years.

XXIV. NOTICES

A. Notices. Except as otherwise required of GRANTEE by COMMISSION, all notices, consents, requests, demands, reports, invoices or other communications required or permitted under this Contract shall be in writing and shall conclusively be deemed effective (1) on personal delivery, (2) on confirmed delivery by courier service (3) on the first business day after transmission is sent by facsimile or (4) three business days following deposit in the United States mail, by first class mail, postage prepaid, addressed to the party to be notified as set forth below, or to such other addresses as the parties may, from time to time, designate in writing. E-mails shall be confirmed in hard copy by either United States mail, overnight courier or facsimile.

To CONTRACTOR:

<table>
<thead>
<tr>
<th>Primary Contact Person</th>
<th>Telephone</th>
<th>E-mail</th>
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<tr>
<th>Fiscal Contact Person</th>
<th>Telephone</th>
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</table>
To COMMISSION:

FIRST 5 LA
Attention: Kim Belshé, Executive Director
750 North Alameda Street, Suite 300
Los Angeles, California 90012

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

XXV. WORD USAGE

Unless the context clearly requires otherwise, (a) the words “shall” or “agrees” are mandatory, and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” and “including” are not limiting.

XXVI. MODIFICATION OF CONTRACT

This Contract may be supplemented, amended or modified only by a writing signed by both parties. No oral conversation, promise or representation by or between any officer or employee of the parties shall modify any of the terms or conditions of this Contract. COMMISSION shall not be deemed to have approved or consented to any alteration of the terms of this Contract by virtue of COMMISSION’s review and approval of, or failure to object to, contracts or other business transactions entered into by CONTRACTOR.

XXVII. ASSIGNMENT AND DELEGATION

CONTRACTOR may not assign any of its rights or delegate any of its duties under this Contract without COMMISSION’s prior written consent, which consent may be withheld in COMMISSION’s sole and absolute discretion. If COMMISSION consents to CONTRACTOR’s subcontracting of all or a portion of this Contract, CONTRACTOR shall submit to COMMISSION a copy of the subcontract or memorandum of understanding between CONTRACTOR and the subcontractor for COMMISSION’s prior review and approval. Despite COMMISSION’s consent, no assignment or delegation will release CONTRACTOR from any of its obligations or alter any of its primary
obligations to be performed under this Contract. Any attempted assignment or delegation in violation of this provision is void and will entitle COMMISSION to terminate this Contract. As used in this Section XXVII, “assignment” and “delegation” means any sale, gift, pledge, hypothecation, encumbrance, subcontract or other transfer of all or any portion of the rights, obligations or liabilities in or arising from this Contract to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs or any change in CONTRACTOR’s corporate structure, governing body or management.

XXVIII. WAIVER

No delay or omission to exercise any right, power or remedy accruing to COMMISSION under this Contract shall impair any right, power or remedy of COMMISSION, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure or a condition or any right or remedy under this Contract (1) shall be effective unless it is in writing and signed by the party making the waiver; (2) shall be deemed to be a waiver of, or consent to, any other breach, failure of condition or right or remedy; or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

XXIX. ENTIRE AGREEMENT

This Contract and all exhibits referred to in this Contract constitute the final, complete and exclusive statement of the terms of the agreement between the parties and supersedes all other prior or contemporaneous oral or written understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying on, any representation or warranty except those expressly set forth in this Contract.

XXX. TIME OF ESSENCE

Time is of the essence in respect to all provisions of this Contract that specify a time for performance; provided, however, that the foregoing may not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Contract.

XXXI. AMBIGUITIES

Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Contract.
XXXII. HEADINGS

The headings in this Contract are included solely for convenience or reference and shall not affect the interpretation of any provision of this Contract or any of the rights or obligations of the parties of this Contract.

XXXIII. SEVERABILITY

If a court or an arbitrator of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid for any reason, the validity and enforceability of the remaining provisions of this Contract shall not be affected.

[SIGNATURES PAGE FollowS]
XXXIV. SIGNATURES

The parties, through their respective duly authorized signatories, are signing this Contract on the date stated in the introductory clause.

COMMISSION

Los Angeles County Children and Families First Proposition 10 Commission, aka First 5 LA

By: _____________________________
   Name: Kim Belshé
   Title: Executive Director

Approved as to Form:

By: _____________________________
   Name: Craig A. Steele
   Title: Legal Counsel

CONTRACTOR

Best Preschool, a [DESCRIPTION OF ENTITY]

By: _____________________________
   Name: Michael Jackson
   Title: President
   [If a corporation: Board Chairman, President or VP]

By: _____________________________
   Name: ___________________________
   Title: ___________________________
   [If a corporation: Secretary, Asst. Secretary, CFO or Asst. Treasurer]