

CONTRACT

«MANAGER NAME»

Contract No. «Contract Number»

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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 (“OWNER”) and «MANAGER NAME» (“MANAGER”), collectively referred to as the “Parties”.

RECITALS

OWNER desires MANAGER to operate and manage the real property, improvements and personal property located at 750 North Alameda Street, Los Angeles, CA as described in Exhibit A; and

MANAGER desires to operate and manage the Property for OWNER.

The Parties agree as follows:

I. OPERATION AND MANAGEMENT

MANAGER shall operate and manage the Property in accordance with the usual and customary practices followed by MANAGERS of a Property of similar size and like quality and in the same general geographic location as the Property and in accordance to Exhibit A. Scope of Work. MANAGER shall do the following:

- A. Subcontract for services when necessary for the efficient operation and management of the Property upon request by OWNER; except that MANAGER shall not enter into any subcontract on behalf of OWNER or otherwise with respect to the Property with fees, costs or subcontract amounts which do not conform to the Scope of Work and Budget, attached hereto as Exhibits A and B, respectively and incorporated herein by this reference unless otherwise approved by OWNER. MANAGER shall consult with OWNER prior to contracting or purchasing goods or services. For each purchase or subcontracted service greater than \$X, MANAGER shall obtain a minimum of three (3) bids or quotes from MANAGERS for the goods or services. In the event MANAGER is unable to secure three bids or quotes, MANAGER shall provide a written notice to OWNER justifying MANAGER's proposed use of a MANAGER for purchase of the goods or services. For contracted purchases and services with values between \$0 and \$X, MANAGER may make the purchase or approve the service without obtaining three (3) bids or notifying OWNER.
- B. Provide other management, accounting and administrative services usually and customarily provided by MANAGERS of a Property of similar size and like quality and in the same general geographic location as the

Property (including, but not limited to, the maintenance of proper books and records respecting the operation and management of the Property);

- C. If applicable to the performance of work under this Contract, MANAGER 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. MANAGER may give preference to suppliers of recycled products and may define the amount of this preference;
- D. If applicable to the performance of services under this Agreement, MANAGER 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.
- E. Ensure that any work constituting public works under applicable law complies with all public works requirements, including but not limited to prevailing wage, MANAGER registration, certified payroll reporting, and labor compliance obligations. MANAGER shall verify MANAGER compliance prior to commencement of work and shall provide documentation to OWNER upon request.
- F. In the event of an emergency condition that poses an immediate threat to life, health, safety, security, or risk of significant property damage (“Emergency”), MANAGER is authorized to take such actions as are reasonably necessary to mitigate the Emergency without prior written approval, provided that:

MANAGER makes reasonable efforts to notify OWNER immediately upon discovery of the Emergency;

MANAGER provides written notice to OWNER within twenty-four (24) hours describing the nature of the Emergency, actions taken, vendor selected, and estimated cost;

MANAGER uses commercially reasonable efforts to obtain competitive pricing to the extent practicable under the circumstances; and MANAGER ensures that all statutory requirements, including prevailing wage, MANAGER registration, and certified payroll reporting, are satisfied if Emergency work constitutes public works under applicable law. Nothing in this Section shall be construed as waiving OWNER’s obligations under public works laws.

II. PERSONNEL

MANAGER has, or will secure at its own expense, all personnel required to perform the work required under this Contract. All of the work required under this Contract shall be performed by MANAGER or under its supervision, and all personnel engaged in the work shall be qualified to perform the work. MANAGER's work performed pursuant to this Contract shall be directed by **«MANAGER NAME»**. MANAGER shall not assign or change personnel performing services under this Contract without the prior written approval of the OWNER's designated staff to this Contract ("designated OWNER's staff"), which approval may be withheld in his or her sole and absolute discretion. MANAGER shall submit requests for approval of or changes to personnel to the designated OWNER's staff prior to such person's performance of services under this Contract.

III. TERM OF CONTRACT

The term of this Contract shall be from the effective date, as set forth in the introductory clause, through **«Contract End Date»** ("expiration date"), unless sooner terminated pursuant to this Contract. OWNER may revise the term of this Contract prior to final execution of this Contract by all Parties.

IV. FEES: PAYMENT

- A. Compensation. Compensation for services provided under this Contract shall not exceed a total amount of **«WRITTEN_DOLLAR_AMOUNT»** (**\$«Contract_Amount»**). OWNER shall pay MANAGER in accordance with **Exhibit B** attached hereto and the payment terms set forth in Paragraphs B-D of this Section IV.
- B. Management Fee. As consideration for the services rendered by MANAGER hereunder during the Term, MANAGER shall receive from OWNER a Management Fee per month/per year in accordance to Exhibit B. The Management Fee for any partial month shall be prorated, based upon a fraction the numerator of which is the number of days within such month included within the Term, and the denominator of which is the number of days in such month, with the amount payable being the greater of such fraction of the dollar amount specified in clause (a) above. An adjustment shall be made on the final day of the month, if applicable.
- C. Personnel. On-site personnel shall be compensated based on incurred hourly rates or salary in accordance to Exhibit B.
- D. Manager shall pay from the Owner's account subject to Section E below other costs and expenses relating to the Property, including, but not limited to: 1) subcontractors and/or in-house facility-related services and

goods not included in sections B and C above; (2) all charges for or relating to utilities for the Property; (3) all costs and expenses relating to the maintenance and repair of the Property; (4) all insurance premiums relating to insurance carried by Owner with respect to the Property; and (5) all real property taxes and assessments attributable to the Property (6) expenditures with respect to which Owner has given its prior written approval; and (7) for expenditures in connection with an emergency. Manager shall not pay any other extraordinary cost or expense of operating or managing the Property which are not reflected in Exhibit B. Budget, and Manager shall not pay any such item without prior approval of Owner. A separate monthly invoice for non-recurring or "one-time" expenses not reflected in the Approved Budget shall be submitted with the regular monthly invoice.

- E. Special Bank Account. Manager shall deposit into the Account, promptly upon receipt, all amounts constituting a portion of the Gross Cash Collections. Amounts deposited in the Account shall not be commingled with funds of Manager derived from Manager's other management activities (whether or not such other management activities are performed for Owner or for affiliates of Owner or otherwise). Manager shall use all amounts held in the Account in the manner and to the extent permitted by Section F of this Agreement. Owner shall be furnished a duplicate bank statement with respect to the Account each month. The Account shall be a separately designated trust account maintained by Manager for Owner with a financial institution selected by the Owner and from which Owner and Manager may draw funds.

- F. Additional Source of Funds for Payment. Owner and Manager anticipate that, for certain periods, the Gross Cash Collections for such periods may not be sufficient to permit Manager to pay all of the costs and expenses described in Section D above. In order to provide for the full and timely payment of such costs and expenses, Owner hereby agrees to deposit in the Account from time to time such amount or amounts as Manager and Owner may reasonably deem necessary to timely pay such costs and expenses in any such circumstance within 15 business days following Owner's receipt of notification from Manager of the amount and nature of the costs and expenses necessitating the deposit.

- G. Gross Cash Collections. Gross Cash Collections for any period means the total of any and all amounts, payments, fees, rentals, additional rentals, and net parking proceeds, reimbursements, income, interest on amounts owed by tenants of the Property and other amounts directly or indirectly received by or on behalf of or credited to Owner with respect to the operation, leasing, franchising, marketing or licensing of the Property,

excluding the proceeds of any sale, financing, refinancing, casualty or condemnation.

- H. Method of Payment. Not later than the last business day of each month, MANAGER shall submit to OWNER not more than one invoice per month for services performed and expenses incurred and paid by MANAGER (“actual expenses”) during the prior month pursuant to this Agreement and utilizing an invoice form (1) provided to MANAGER by OWNER or (2) prepared by MANAGER and approved as to form by OWNER. All properly completed invoices submitted by MANAGER are collectively incorporated into this Contract as **Exhibit C** upon OWNER’s receipt of each invoice. MANAGER shall address invoices to the designated OWNER staff per the instructions provided on the invoice form provided to MANAGER from OWNER. The OWNER provided invoice forms shall describe in detail services performed and expenses incurred and paid by MANAGER during the prior month (e.g. expenses incurred in March shall be invoiced by April 30) and in accordance with the rates/fees set forth in **Exhibit B**. The invoice forms prepared by MANAGER and approved as to form by OWNER shall include, at minimum, the following information: MANAGER Name, Report Period, Invoice Amount, Approved Budget by Category, Year-to-Date (“YTD”) Actual Total, Approved Budget Total and Budget Balance. If there are any errors contained in any invoice submitted to OWNER, MANAGER shall describe and explain the error in MANAGER’s subsequent invoice submitted to OWNER. OWNER shall review the invoices and notify MANAGER within ten (10) business days of any disputed amounts. OWNER shall pay MANAGER all undisputed invoice amounts within thirty (30) calendar days of OWNER’s receipt of a timely submitted invoice. OWNER shall make checks payable to MANAGER as listed in Section XXIV [the Payee, «Payee_Name», at «Payment_Address»] or at MANAGER’s election, OWNER shall make payments through automated clearing house (ACH) in which funds are electronically deposited to the MANAGER’s bank account as specified in an authorization form. If MANAGER fails to timely submit a properly completed invoice on or before the last business day of a month in accordance with this Paragraph E, OWNER shall process the late invoice in the subsequent month from OWNER’s date of receipt. OWNER shall not be liable for payment of invoice amounts on any invoice received by the OWNER more than ninety (90) calendar days following the invoice due date. Provided that MANAGER is in full compliance with all provisions of this Contract and is not in material breach of this Contract, OWNER shall make final payment in accordance with the provisions of this Section IV and upon MANAGER’s satisfactory performance of all work. In the event OWNER reasonably believes OWNER has overpaid MANAGER, OWNER may seek a financial accounting from MANAGER and avail itself of all

legal remedies to seek compliance and the repayment of any amounts overpaid. MANAGER's submission of fraudulent invoices shall constitute a material breach of this Contract.

- I. MANAGER shall submit a detailed monthly invoice itemizing all fees and reimbursable expenses incurred during the billing period. Each invoice shall be accompanied by the following supporting documentation: receipts, subcontracts, invoices, bids collected and proof of payment. Additionally, Manager shall provide to Owner a detailed statement with all disbursements for the previous month, a copy of the bank statement, a reconciliation of such statement with Manager's records, a check register report listing all checks drawn on the account and all receipted bills, and copies of contracts which were executed by Manager during the previous month.

V. EXPENDITURES BY MANAGER

- A. MANAGER shall make expenditures in the performance of this Contract in accordance with **Exhibits A and B**.
- B. OWNER may modify the work required under **Exhibits A and B**.
- C. **Exhibit B** shall only be modified in writing signed by both Parties in accordance with Section XXVI of this Contract. MANAGER shall submit budget modification requests to the OWNER staff prior to incurring the modified expenses.
- D. MANAGER shall restrict its use of payments made by OWNER to MANAGER under Section IV of this Contract to MANAGER's performance of the work described in **Exhibits A**.

VI. EXHIBITS

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

- | | |
|-----------|-----------------------|
| Exhibit A | SCOPE OF WORK |
| Exhibit B | BUDGET FORMS |
| Exhibit E | COMPLIANCE GUIDELINES |

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

Exhibit C 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.

VII. INDEPENDENT MANAGER

- A. MANAGER is, and shall at all times remain as to OWNER, a wholly independent MANAGER. MANAGER shall have no power to incur any debt, obligation, or liability on behalf of OWNER unless approved by OWNER. MANAGER shall not, at any time, or in any manner, represent that it or any of its officials, officers, directors, agents or employees are in any manner employees of OWNER. MANAGER agrees to pay all required taxes on amounts paid to MANAGER under this Contract, and to indemnify and hold OWNER harmless from any and all taxes, assessments, penalties, and interest asserted against OWNER by reason of the independent MANAGER relationship created by this Contract. MANAGER shall fully comply with the workers' compensation law regarding MANAGER and MANAGER's employees. MANAGER shall indemnify and hold OWNER harmless from any failure of MANAGER to comply with applicable workers' compensation laws. OWNER may offset against the amount of any fees due to MANAGER under this Contract any amount due to OWNER from MANAGER as a result of MANAGER's failure to promptly pay to OWNER any reimbursement or indemnification arising under this Section VIII.
- B. MANAGER's Employees. The commencement of employment, termination of employment and other terms and conditions governing the employment of the individuals or entities employed by MANAGER for the direct operation of the Property shall be determined by MANAGER. All costs and expenses incurred by MANAGER in connection with the employment by MANAGER of employees for the Property, both direct and indirect, and including, but not limited to, wages (including, without limitation, the minimum wage), parking, benefits (including, without limitation, vacation, medical and dental insurance coverage, life insurance coverage, disability and taxes and/or contributions, maternity and family leave and leaves of absence), payroll accounting costs, taxes, workers' compensation premiums and/or contributions, shall be deemed costs and expenses incurred in connection with the operation and management of the Property in accordance with this Agreement. Except as expressly provided above, no costs or expenses associated with MANAGER's general corporate headquarters staff shall be charged as costs and expenses of the Property through indirect allocations. Manager shall conduct, at its sole cost and expense, a criminal background check on daily on-site personnel prior to their assignment. Manager shall ensure that on-site personnel

successfully pass the background check prior to being permitted to perform services.

- C. Signage. Decal signs shall be installed at the Property on the front doors in an area(s) approved by Owner indicating Manager as Owner's managing agent for the Property. The form and content of the sign(s) shall be subject to Owner's prior written approval, not to be unreasonably withheld. The cost of having the sign(s) designed, prepared, installed and maintained shall be a cost and expense of the operation and management of the Property in accordance with this Agreement.

VIII. OWNERSHIP

- A. All personal property purchased with compensation provided to MANAGER from OWNER under this contract shall become OWNER's property upon the expiration or termination of this Contract, unless otherwise agreed to by OWNER. OWNER shall exercise its option to physically retain items of tangible personal property within the thirty (30) calendar days immediately preceding the expiration of the Contract. The terms of this Section VIII shall survive the expiration or termination of this Contract.
- B. All data and work products generated by or for MANAGER in connection with the Property and its operation, or those supplied to OWNER by MANAGER or MANAGER's employees or agents are and shall remain the property of OWNER and shall be relinquished to the OWNER upon termination of the contract. OWNER shall have the right to use such data during the term of this Agreement.

IX. CONFLICT OF INTEREST AND CONFIDENTIALITY

MANAGER and its officials, officers, directors, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to MANAGER's services under this Contract, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. MANAGER and its officials, officers, directors, employees, associates and subcontractors shall not accept work, income, compensation, employment or gifts, whether actual or promised, from another person or entity for whom MANAGER is not currently performing work that would require MANAGER or one of its officials, officers, directors, employees, associates or subcontractors to abstain from making, participating in or attempting to influence a governmental decision under this Contract pursuant to a conflict of interest statute. MANAGER shall maintain the confidentiality of any confidential information obtained from OWNER during the term of this Contract and shall not use such information for personal or commercial gain outside of the scope of this Contract. The term "confidential information" shall

mean any and all information that is disclosed by OWNER to MANAGER verbally, electronically, visually or in a written or other tangible form that is either identified or should be reasonably understood to be confidential or proprietary.

X. INSURANCE

- A. MANAGER, 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 OWNER's 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) General Aggregate. Coverage shall be at least as broad as Insurance Services Office (ISO) Form CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury and personal and advertising injury. If the policy is on a claims-made basis, the retroactive and continuity dates must be before the effective date of this Contract or the beginning of MANAGER's performance of services under this Contract. If the policy is on a claims-made basis, MANAGER shall maintain the insurance for three (3) years after the completion of MANAGER's services 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 MANAGER's performance of services under this Contract, MANAGER must purchase extended reporting coverage for a minimum of three (3) years after the completion of MANAGER's services under this Contract.
 2. Business Auto Liability coverage on ISO Business Auto Coverage forms with minimum limits of one million dollars (\$1,000,000) per accident for bodily injury and property damage. Insurance shall cover liability arising out of MANAGER's use of autos pursuant to this Contract, including owned, leased, hired, or non-owned autos, as each may be applicable. Coverage shall be as broad as Insurance Services Office (ISO) Form CA 00 01.
 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 and per employee and in the Aggregate for disease.

4. When the law establishes a professional standard of care for MANAGER's services or if the services or a portion of the services performed by MANAGER involves the use of professional knowledge, 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 and continuity dates must be before the effective date of this Contract or the beginning of MANAGER's performance of services under this Contract. MANAGER shall maintain the insurance for three (3) years after the completion of MANAGER's services 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 MANAGER's performance of services under this Contract, MANAGER must purchase extended reporting coverage for a minimum of three years.
 5. Bonding Manager and Manager's officers, directors and employees who handle or are responsible for the handling of Owner's monies or master keys, shall be bonded by a fidelity bond, in an amount not less than \$2,500,000.00, and in form reasonably acceptable to Owner, indemnifying Owner as obligee against loss, theft, embezzlement, or other fraudulent acts on the part of Manager or such officers, directors or employees. The costs and expenses incurred by Manager in obtaining, providing and evidencing such bond shall be deemed costs and expenses incurred in connection with the operation and management of the Property and shall be subject to payment from amounts held in the Account in accordance with Section IV.D above.
- B. The policies of insurance required under this Section XIV 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:VIII, unless otherwise approved in writing by OWNER's Executive Director or Executive Director's designee.
- C. 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.
- D. The following endorsements are required by the OWNER:
1. The Commercial General Liability and Business Auto Liability policies are to contain or be endorsed to contain the "Los Angeles County Children and Families First – Proposition 10 OWNER", or if abbreviated, "LA Cty Prop 10 Commn.", its officials, officers,

directors, agents, consultants and employees as additional insureds with respect to liability and defense of claims arising out of services or operations performed by or on behalf of MANAGER. A Blanket Additional Insured endorsement indicating Additional Insured status “as required by written contract or agreement” is acceptable.

2. The Commercial General Liability and Business 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 OWNER”, or if abbreviated, “LA Cty Prop 10 Commn.”, its officials, officers, directors, agents, consultants and employees.
 3. OWNER shall be named as Loss Payee under the Property coverage policy, as OWNER’s interest may appear.
 4. No policies of insurance provided to comply with this Section XIV shall prohibit MANAGER, or MANAGER’s employees or agents, from waiving the right of subrogation prior to a loss. MANAGER waives any right of subrogation that MANAGER or MANAGER’s insurer may acquire against OWNER. MANAGER shall obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers’ Compensation policy as required by Paragraph A of this Section XIV shall include a waiver of subrogation endorsement as required in this Paragraph D.4. MANAGER’s failure to provide OWNER with a waiver of subrogation endorsement from MANAGER’s insurer(s) shall not relieve MANAGER of its obligations under this Paragraph D.4.
- E. Should the policies of insurance required under this Section XIV be suspended, voided, modified, terminated or non-renewed, MANAGER will provide thirty (30) days’ prior written notice to OWNER, excepting only for non-payment of premium, in which case MANAGER shall provide ten (10) days’ written notice to OWNER. If the policies of insurance required under this Section XIV are suspended, voided, modified, terminated or non-renewed, MANAGER shall, within two (2) business days of notice from the insurer(s), notify OWNER by phone, fax or certified mail, return receipt requested of the suspension, voiding, modification, termination or non-renewal of the policies.
- F. The requirements of specific coverage features or limits contained in this Section XIV 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.

- G. The requirements of this Section XIV 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 XIV.
- H. All insurance coverage and limits provided by MANAGER 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 XIV.
- I. MANAGER or MANAGER's insurance agent or broker shall deliver certificates or other evidence of insurance coverage and copies of all required endorsements to OWNER in accordance with Section XIV.I of this Contract. OWNER utilizes myCOI Central, a software management system, to collect certificates of insurance and to track and verify MANAGER's insurance coverage. Upon MANAGER's receipt of this executed Agreement, MANAGER will receive an email from ccd@first5la.org with instructions for registration. MANAGER shall follow the instructions contained in the email and complete the online registration within 10 business days after receipt of the registration email. Upon completion of registration, OWNER will request proof of insurance directly from MANAGER's insurance agent(s). Any actual or alleged failure on the part of OWNER 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 OWNER or any additional insured in this or any other regard.
- J. Renewal Certificates shall be provided not less than ten (10) calendar days prior to MANAGER's policy expiration dates. OWNER, at any time, may request and obtain from MANAGER complete, certified copies of any insurance policies required of MANAGER under this Section XIV.
- K. MANAGER may submit evidence of adequate self-insurance as a substitute for the policies of insurance required under this Section XIV subject to the approval of OWNER's Executive Director or Executive Director's designee. Copies of MANAGER's audited financial statements to support any self-insurance or other financial documents may be required by OWNER. MANAGER shall submit to OWNER a copy of the self-insured certificate and evidence of the authorized third-party administrator of the self-insured program.
- L. MANAGER shall include all subcontractors as insureds under MANAGER's own policies or shall require all subcontractors performing services under this Contract to comply with all insurance requirements

set forth in this Section XIV. MANAGER shall obtain certificates or other evidence of insurance and copies of all required endorsements from all subcontractors, and MANAGER assumes all responsibility for ensuring that coverage is provided by subcontractors in conformity with the requirements of this Section XIV.

- M. MANAGER's failure to maintain the policies of insurance required under this Section XIV, complete registration in myCOI Central, or submit compliant certificates of insurance shall constitute a breach of this Contract for which OWNER may withhold payment to MANAGER until such time as MANAGER complies with the insurance requirements contained in this Section XIV, terminate this Contract pursuant to Paragraph C of Section XX of this Contract or secure alternate insurance at MANAGER's expense.
- N. MANAGER also shall promptly report to OWNER any injury or property damage accident or incident, including any injury to a MANAGER's employee occurring at a OWNER sponsored event, and any loss, disappearance, destruction, misuse, or theft of OWNER property, monies or securities entrusted to MANAGER. MANAGER also shall promptly notify OWNER of any third party claim or suit filed against OWNER or any of its subcontractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against MANAGER and/or OWNER.

XI. INDEMNIFICATION

- A. Indemnity for Professional Liability. When the law establishes a professional standard of care for MANAGER's work or if the work or a portion of the work performed by MANAGER involves the use of professional knowledge, and to the fullest extent permitted by law, MANAGER shall defend, indemnify and hold harmless OWNER, its officials, officers, directors, employees, servants, designated volunteers and agents serving as independent MANAGERS in the role of OWNER 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 MANAGER, its officials, officers, directors, agents, employees, subcontractors, or any entity or individual that MANAGER bears legal liability thereof, in the performance of professional services under this Contract. MANAGER shall defend Indemnitees in any action or actions filed in connection with any such damages with counsel of

OWNER'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 fullest extent permitted by law, MANAGER 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 MANAGER's performance of this Contract, including the Indemnitee's 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. MANAGER shall defend Indemnitees in any action or actions filed in connection with any such claims with counsel of OWNER'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 XV shall survive the expiration or termination of this Contract.

XII. ACCOUNTABILITY

- A. It is OWNER's intent to contract with responsible entities. MANAGER shall notify OWNER if MANAGER is debarred, suspended, proposed for debarment, or declared ineligible by any federal, state or local funding agency. MANAGER shall notify OWNER if MANAGER's license or certification, as applicable, has been revoked or suspended. MANAGER shall notify OWNER within the (10) business days of receipt of notification that MANAGER is subject to any proposed or pending debarment, suspension, indictments, termination or revocation of license or certificate.
- B. MANAGER shall perform the work required under this Contract under the direction of the designated OWNER's staff. The designated OWNER's staff shall ensure that MANAGER performs the work in compliance with the terms and timelines set forth in **Exhibit A**. MANAGER shall send all written communications related to the performance of work under this Contract to the designated OWNER's staff. MANAGER shall update the designated OWNER's staff concerning the performance of work under this Contract. For noncompliance, the OWNER may modify **Exhibit A**, request from MANAGER a written plan detailing the corrective action steps MANAGER proposes to take and the time period required for reporting and compliance ("Corrective Action Plan"), place MANAGER in non-compliant status pursuant to the Compliance Guidelines or terminate this Contract pursuant to Paragraph C of Section XX of this Contract for

breach of this Contract. Corrective Action Plans are subject to OWNER's approval. If MANAGER fails to comply with an approved Corrective Action Plan, OWNER may place MANAGER in non-compliant status in accordance with the Compliance Guidelines, attached as **Exhibit E**. OWNER, at its sole discretion, may also place the MANAGER into non-compliant status without a Corrective Action Plan. The rights and obligations created by the Compliance Guidelines, attached as **Exhibit E**, with respect to contract compliance, shall survive the expiration or termination of this Contract.

- C. If applicable, OWNER shall make relevant, non-confidential and non-privileged information available and accessible to MANAGER to assist in MANAGER's successful completion of the work required under this Contract.
- D. MANAGER shall provide any deliverables required under **Exhibit A** to the designated OWNER staff within and by the timelines required under **Exhibit A** and with the highest degree of quality and service to OWNER.
- E. MANAGER 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.
- F. OWNER, in its sole discretion, may conduct internal evaluations and reviews of MANAGER's performance of work under this Contract. MANAGER shall comply with OWNER's inquiries and requests for information arising out of such evaluations within the timeframe specified by OWNER in the inquiry or request. The evaluation(s) shall include, but are not limited to, contract compliance and the effectiveness of MANAGER's performance of the work required under **Exhibit A** and this Contract. OWNER may modify this Contract based on the results of the OWNER's evaluation(s) and review(s).
- G. MANAGER shall respond to OWNER's inquiries and requests for information arising out of the performance of this Contract within the timeframe specified by OWNER in its inquiry or request.

XIII. INTERPRETATION AND JURISDICTION

This Contract, and any dispute arising from the relationship between the Parties to this Contract, shall be interpreted and governed according to 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.

XIV. COMPLIANCE WITH APPLICABLE LAWS

- A. MANAGER 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. MANAGER's failure to comply with such laws, ordinances, codes, regulations and authorities shall be deemed a material breach of this Contract.
- B. MANAGER shall ensure that MANAGER, its employees and subcontractors, as well as the participants in any program or service conducted hereunder, comply with all applicable federal, State and local public health orders to protect against the spread of the COVID-19 virus or other public health threat, including, without limitation, maintaining social distancing requirements, avoiding unnecessary or non-essential gatherings, and providing or requiring personal protective devices such as face masks, gloves and cleaning supplies.

XV. LIMITATION OF OWNER OBLIGATIONS DUE TO LACK OF FUNDS

- A. OWNER'S payment obligations pursuant to this Contract are payable solely from funds appropriated by OWNER for the purpose of this Contract. MANAGER shall have no recourse to any other funds allocated to or by OWNER. MANAGER acknowledges that the funding for this Contract is limited to the term of the Contract only, with no future funding promised or guaranteed.
- B. OWNER and MANAGER 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 OWNER. In the event of any repeal, amendment, interpretation, or invalidation of any provision of Proposition 10 that has the effect of reducing or eliminating OWNER's receipt of Proposition 10 tax revenues, or any other unexpected material decline in OWNER's revenues, OWNER may reduce or eliminate funding for this Contract at a level that is generally proportionate to the elimination or reduction in the OWNER's receipt of Proposition 10 tax revenues.

XVI. 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. OWNER shall compensate MANAGER for work and deliverables satisfactorily rendered to the

effective date of termination. Neither Party shall be liable to the other for damages of any kind, including incidental or consequential damages, resulting from the termination of this Contract under this Section XX.A.

- B. Termination for Non-Appropriation of Funds. Notwithstanding any other provision of this Contract, OWNER shall not be obligated for MANAGER's performance under this Contract or by any provision of this Contract during any of OWNER's future fiscal years unless and until OWNER appropriates funds for this Contract in the OWNER's budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30th of the last fiscal year for which funds were appropriated. OWNER shall notify MANAGER in writing of any such non-allocation of funds at the earliest possible date. OWNER shall not be liable to MANAGER for damages of any kind, including incidental or consequential damages, resulting from the termination of this Contract under this Section XXI.B.
- C. 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 MANAGER's failure to perform the work or provide the deliverables described in **Exhibit A** or a Party's material breach of any provision of this Contract. OWNER shall compensate MANAGER for work and deliverables satisfactorily rendered to the effective date of termination. Neither Party shall be liable to the other for damages of any kind, including incidental or consequential damages, resulting from the termination of this Contract under this Section XX.C.

XVII. SURVIVAL CLAUSE

Notwithstanding the Term of this Contract, all terms and conditions set forth in **Exhibit A** related to the delivery of any required report to OWNER by MANAGER shall survive the expiration or termination of this Contract. MANAGER shall prepare and provide to OWNER all reports required under **Exhibit A** at no additional cost to OWNER.

XVIII. 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.

XIX. RECORDS AND AUDITS

- A. MANAGER shall maintain a record for each item of tangible real or personal property 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. MANAGER 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. OWNER may, at any time during MANAGER’s business hours, and upon reasonable notice to MANAGER, (i) conduct site visits to evaluate, audit, inspect and monitor MANAGER’s 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 MANAGER’s invoices. OWNER may, upon seven (7) days’ advance written notice to MANAGER, inspect and copy the records. The terms of this Section XXIII shall survive the expiration or termination of this Contract for four (4) years.

XX. NOTICES

- A. Notices. Except as otherwise required of MANAGER by OWNER, 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) 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 or (4) on the first business day after transmission is sent by email, if permitted by the designated OWNER staff. E-mails shall be confirmed in hard copy by United States mail, overnight courier or facsimile, as required by the designated OWNER staff.

To MANAGER:

«MANAGER_NAME»
«MANAGER_Address»
«City_State_Zip»

Primary Contact

«Primary_Contact_Name»
«Primary_Contact_Phone»
«Primary_Contact_Email»

Fiscal Contact

«Fiscal_Contact_Name»
«Fiscal_Contact_Phone»
«Fiscal_Contact_Email»

To OWNER:

FIRST 5 LA, Contract Administration and Purchasing Department
Attention: «CCO_Name», Contract Compliance Officer
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.

XXI. 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.

XXII. 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. OWNER shall not be deemed to have approved or consented to any alteration of the terms of this Contract, including its Exhibits, by virtue of OWNER’s review and approval of, or failure to object to, contracts or other business transactions entered into by MANAGER.

XXIII. ASSIGNMENT AND DELEGATION

Unless otherwise approved in this Agreement as specified in Exhibit A and B, MANAGER may not assign any of its rights or delegate any of its duties under this Agreement without OWNER’s prior consent, which shall be approved in accordance with Section XXVI. Such consent may be withheld in OWNER’s sole

and absolute discretion. MANAGER shall submit the request to the designated OWNER staff through written correspondence for OWNER's review and consent. The written correspondence shall identify the proposed subcontractor, the subcontracted amount, and the subcontractor's proposed scope of work. If required by the designated OWNER staff, MANAGER shall submit a copy of the subcontract or memorandum of understanding between MANAGER and the subcontractor for OWNER's prior review and approval. If requested by the designated OWNER staff, MANAGER shall provide copies of executed subcontracts for all approved subcontractors.

Despite OWNER's consent, OWNER shall not be liable for the actions of the subcontractors and no assignment or delegation will release MANAGER from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this provision is void and will entitle OWNER to terminate this Agreement. 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 Agreement 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 MANAGER's corporate structure, governing body or management.

XXIV. WAIVER

No delay or omission to exercise any right, power or remedy accruing to OWNER under this Contract shall impair any right, power or remedy of OWNER, 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 shall be (1) effective unless it is in writing and signed by the Party making the waiver; (2) deemed to be a waiver of, or consent to, any other breach, failure of condition or right or remedy; or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

XXV. 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 supersede 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.

XXVI. 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.

XXVII. 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.

XXVIII. 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.

XXIX. 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.

XXX. SIGNATURES

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

[SIGNATURES PAGE FOLLOWS]

OWNER

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

MANAGER

«MANAGER_NAME»

By: _____

Name: «First_5_LA_Signer_Name» _____

Title: «First_5_LA_Signer_Title» _____

By: _____

Name: «Signatory» _____

Title: «Title» _____

Approved as to Form:

By: _____

Name: _____

Title: Legal Counsel _____

By: _____

Name: «Signatory_2» _____

Title: «Title_2» _____