

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

534



FROM: Economic Development Agency

SUBMITTAL DATE:
October 21, 2010

SUBJECT: New Capacity for High Needs Grant Award

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Resolution No. 2010-301 authorizing the acceptance of a grant award from the New Capacity for High Needs Program; and
2. Authorize the Chairman to Execute the Investment of Funds Contract.

BACKGROUND: The New Capacity for High Needs Grant Program is being made available from the Riverside County Children and Families Commission. The program has been offered to fund community based projects that support children from birth through age five in Riverside County.

(Continued)

Robert Field
Robert Field
Assistant County Executive Officer/EDA
By Lisa Brandl, Managing Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: New Capacity for High Needs Program Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer J. Sargent*
County Executive Office Signature
Jennifer J. Sargent

FORM APPROVED COUNTY COUNSEL
 BY: *Anita C. Willis*
 ANITA C. WILLIS
 DATE: 10-20-10
 Departmental Concurrence

Dep't Recomm.: Consent
 Per Exec. Ofc.: Consent
 Policy
 Policy

Prev. Agn. Ref.: N/A | District: 5 | Agenda Number: 3 16

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

BACKGROUND: (Continued)

The intent of the program is to support New Capital Development and/or Renovation for increasing the number of licensed center-based child care spaces. An award of \$750,000 has been made to the Riverside County Economic Development Agency ("EDA") and will be used by the Redevelopment Agency for the County of Riverside ("Agency"), a division of EDA, for New Capital Development at the Marion V. Ashley Community Center located at 25625 Briggs Road in the City of Menifee. The Agency will use the funding for the installation of kitchen equipment, playground equipment, irrigation and landscaping, fire alarm and security systems, fixtures, flooring, doors, cabinetry, and other various items that will benefit the Continuing Development Incorporated Child Care Facility ("Child Care Facility") located within the Community Center. The Child Care Facility will provide 161 Toddler and Preschool spaces within an area of the County that is in need of these services. There is no matching funds requirement for this grant.

Staff recommends the Board adopt Resolution Number 2010-301, which authorizes the Assistant CEO/EDA, or his designee, to execute the Investment of Funds Contract as well as any amendments thereto, and any other documents necessary to secure the grant funds from the Commission.

Attachments:

- Resolution Number 2010-301
- Riverside County Children and Families Commission Investment of Funds Contract

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3 **RESOLUTION NO. 2010-301**
4 **ACCEPTANCE OF NEW CAPACITY FOR HIGH NEEDS GRANT AND**
5 **INVESTMENT OF FUNDS CONTRACT**

6 **WHEREAS**, the Economic Development Agency (“Agency”) has applied for
7 and received funds from the New Capacity for High Needs Grant Program from the
8 Riverside County Children and Families Commission (“Commission”); and

9 **WHEREAS**, the Agency submitted to the Commission an application to obtain
10 an allocation of New Capacity for High Needs Grant Program funds in the amount
11 of \$750,000, with no matching funds requirement, for New Capital Development at
12 the Continuing Development Incorporated Child Care Facility (“Child Care Facility”)
13 located within the Marion V. Ashley Community Center (“Community Center”) at
14 25625 Briggs Road in the City of Menifee; and

15 **WHEREAS**, the Agency was approved for funding by the Commission in the
16 amount of \$750,000; and

17 **WHEREAS**, the Commission has developed an Investment of Funds Contract
18 which establishes the terms of approval for the New Capacity for High Needs
19 Grant Program funds and must be executed by the Agency in order to secure said
20 funds; and

21 **WHEREAS**, the Investment of Funds Contract is attached hereto and
22 incorporated herein by this reference; and

23 **WHEREAS**, the Investment of Funds Contract requires the New Capacity for
24 High Needs Grant Program funds to be used for New Capital Investment at the
25 Child Care Facility; and

26 **WHEREAS**, the Board of Supervisors has established County Policy A-30
27 which requires the managing department head to bring any awards or contracts
28 resulting from a grant application to the Board of Supervisors for approval.

1 **NOW, THEREFORE BE IT RESOLVED**, on November 2, 2010, that the
2 Board of Supervisors of the County of Riverside hereby authorizes the Assistant
3 CEO/EDA, or designee, to execute the Investment of Funds Contract as well as
4 any amendments thereto, and any other documents necessary to secure the grant
5 of funds from the Commission.
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FORM APPROVED COUNTY COUNSEL

BY: *Anita C. Willis* 10-20-10
ANITA C. WILLIS DATE

RIVERSIDE COUNTY CHILDREN AND FAMILIES COMMISSION
 CONTRACT
 INVESTMENT OF FUNDS
 2002 Iowa Avenue Suite 100
 Riverside, California 92507

RCCFC AWARD: 3105 NC-11
 CONTRACTOR: Redevelopment Agency for the County of Riverside
 CONTRACT TERM: INITIAL FUNDING PERIOD: 08/01/10 – 06/30/11
 PERIOD 2: 07/01/11 – 01/31/12
 MAXIMUM REIMBURSABLE AMOUNT: \$750,000.00

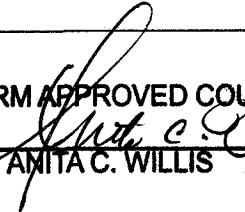
The CONTRACTOR designated above is hereby certified for an investment of funds in an amount not to exceed the amount listed below. This contract consists of two distinct funding periods as referenced below. The CONTRACTOR is required to submit an annual budget for the Executive Director's approval for each funding period of the contract term. Annual budgets will be based on each fiscal year term as follows:

Initial Funding Period: 08/01/10 – 06/30/11 \$750,000.00
 Period 2: 07/01/11 – 01/31/12 \$0.00

Compensation: The maximum reimbursable amount over the life of the contract, including the initial funding period and Period 2 as referenced above, is \$750,000.00 as awarded by the Riverside County Children and Families Commission (RCCFC), also known as First 5 Riverside, provided pursuant to Proposition 10, to provide services and results as set forth in Attachments A, B, C and D attached hereto as incorporated herein by reference, subject to the following terms and conditions:

IN WITNESS WHEREOF, Commission and CONTRACTOR have executed this Contract.

Authorized Signature for Commission:	Authorized Signature for CONTRACTOR:
Printed Name of Person Signing: Harry Freedman	Printed Name of Person Signing:
Title: Executive Director	Title:
Address: 2002 Iowa Avenue, Suite 100 Riverside, CA 92507-2423	Address:
Date:	Date:
Attest:	Attest:
Title: Commission Secretary	Date:

FORM APPROVED COUNTY COUNSEL
 BY:  10-20-10
 ANITA C. WILLIS DATE

RIVERSIDE COUNTY CHILDREN AND FAMILIES COMMISSION

CONTRACT TERMS AND CONDITIONS

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Terms and Conditions

1. NOTICES

All correspondence and notices required or contemplated by this contract shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one day after their deposit in the United States mail, postage prepaid:

COMMISSION:

Harry Freedman, Executive Director
2002 Iowa Avenue, Suite 100
Riverside, California 92507

CONTRACTOR:

Redevelopment Agency for the
County of Riverside
3403 Tenth Street, Suite 500
Riverside, California 92501

Or to such other addresses as the parties may hereafter designate in writing.

2. SOURCE AND SCOPE OF CONTRACT

A. This award Contract is valid and enforceable only if sufficient funds are available to the Commission from Proposition 10 tax dollars for the total term of the Contract, including any extensions, August 1, 2010 through January 31, 2012, for the purposes of this program. It is mutually agreed that if the State does not appropriate sufficient Proposition 10 funds, this Contract shall be amended or terminated to reflect any reduction in funds.

B. In addition, this Contract is subject to any additional restrictions, limitations, or conditions enacted by the State of California, which may affect the provisions, terms, or funding of this Contract in any manner.

3. DEFINITIONS

The following are terminology included within the Terms and Conditions of the Contract are defined by the Riverside County Children & Families Commission as stated below:

Commission: The Riverside County Children & Families Commission, an assembly of Commissioners, appointed by the Riverside County Board of Supervisors and responsible for establishing policy and directing Proposition 10 funds at the county level.

Contractor: The government or other legal entity to which a Contract is awarded and which shall be accountable to the Commission for the use of funds provided.

County: The Riverside County Children & Families Commission, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives.

Scope of Work (SOW): A documented qualitative and quantitative description of the project's deliverables (i.e. what the CONTRACTOR is funded to do). (See Attachment A).

4. TERM

The term of this Contract shall be from August 1, 2010 through January 31, 2012 unless sooner terminated by the provisions herein by either party. **This contract consists of two distinct funding periods as referenced on page 1 of this contract.** In no event shall the term of this Contract extend past January 31, 2012 without formal approval by the governing bodies of both parties. Funds shall not be automatically renewed by the Commission upon or after the term of the Contract except by formal amendment approved by the Commission.

5. **COMPLIANCE, DISALLOWANCE, WITHHOLDING**

If CONTRACTOR fails to comply with any conditions contained within this Contract, the Commission may either temporarily withhold payments until the deficiency is corrected, deny funds for all or part of the cost of activity not in compliance and/or request repayment to the Commission if any disallowance is rendered after audit findings. Written notification of non-compliance will be sent to the identified contact person and the CONTRACTOR signing authority within twenty (20) working days of identification.

6. **TERMINATION**

A. **By Commission:** The Commission may, by written notice to CONTRACTOR terminate this Contract in whole or in part at any time for the reasons as set forth below. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise).

1. **Termination for no cause:** The Commission may terminate this Contract upon thirty (30) calendar-days written notice for no cause. Following notice of such termination, CONTRACTOR shall notify the Commission as to the status of its performance and submit a final invoice for services rendered. Notwithstanding any other payment provision of this Contract, the Commission shall pay CONTRACTOR for service performed to the date of termination, to include a prorated amount of compensation due hereunder, less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Contract or for unperformed services. CONTRACTOR shall furnish to the Commission such information as is necessary in the judgment of the Commission to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the Commission shall be final. The foregoing is cumulative and shall not affect any right or remedy, which the Commission may have in law or equity.

2. **Termination for cause:**

A. **Due to Default or Breach of Contract.** Upon default by the CONTRACTOR in the performance of this Contract or material breach of any of its provisions which include but are not limited to; change in status or delegation, assignment or alteration of the services outlined in Attachment A of this Contract, the Commission may immediately terminate this Contract by written notice, which shall be effective upon receipt by CONTRACTOR.

B. **Due to Health and Safety Concerns of Clients.** The Commission may immediately terminate this Contract, at the sole discretion of the Commission when the CONTRACTOR has been accused and found to be in violation of any county, state, or federal law and/or regulation related to the health and safety of clients. Contract may also be immediately terminated at the sole discretion of the Commission if the CONTRACTOR fails to provide for the health and safety of clients served under this Contract where the health and safety of clients are placed at risk by CONTRACTOR.

C. **Due to Non-Appropriation.** Termination may occur if no funds or insufficient funds are available for payments. After this Contract is terminated under these provisions, the Commission shall have no obligation to make further payments. Termination shall be effective immediately upon written notification of the decrease or elimination of funds.

D. **Due to Non-Compliance.** Termination may occur if CONTRACTOR fails to provide the Commission with any reports, data and/or information as required in this Contract.

B. **By CONTRACTOR:** CONTRACTOR may terminate this Contract in whole or in part upon thirty (30) calendar-days written notice to the Commission.

7. **REQUIREMENT OF SUPPLEMENTING PROGRAM**

Funds received pursuant to this Contract shall not be used to supplant any program of the CONTRACTOR. Proposition 10 Funds shall ONLY be used to supplement a CONTRACTOR's program. The Commission endorses the California Children and Families Commission's interpretation of supplanting: The definition of "supplement" is to add to or augment something that currently exists, while "supplant" is defined as taking the place of something currently in existence. As defined in Health and Safety Code sections 130100 et seq. (the Children and Families Act), all monies raised pursuant to the Act shall be appropriated and expended by CONTRACTOR only to supplement existing levels of services. The Act specifically prohibits appropriation and expenditure of funds to supplant state or local general fund money for any purpose. Further, expenditures are prohibited for use to fund any existing levels of service.

8. **DATA MANAGEMENT:**

The Commission continues to refine its evaluative processes that will assist the Commission, its CONTRACTORS and the community to successfully implement, increase and measure the impact of the Children and Families Act in Riverside County. Where appropriate, CONTRACTOR agrees to participate in the ongoing development of these evaluative processes. Specific areas may include, but are not limited to, the development of outcomes for programmatic performance, standards for service delivery and assessment tools.

9. **SCOPE OF WORK (SOW)**

A. CONTRACTOR will be required to submit and adhere to a Scope of Work approved by the Commission. The SOW will accurately reflect measurable results of services provided through Proposition 10 funding. The SOW will provide a qualitative and quantitative description of the program(s) objectives to be achieved in connection with Proposition 10 funding.

B. SOW revisions that are considered relatively minor adjustments that do not affect the overall deliverables of the contract shall be accepted for consideration throughout the term of this contract. Requests for these types of SOW adjustments must be submitted to the Commission office in writing or via e-mail and shall not be implemented by CONTRACTOR prior to receipt of written approval from authorized Commission personnel as designated by the Executive Director of the Commission. Upon approval, CONTRACTOR will receive either written or e-mail verification from the Executive Director, or designee within thirty (30) calendar days after receipt at the Commission office.

SOW revisions that are considered significant changes to program performance targets and affect the overall deliverables of the Contract include, but are not limited to, the following: changes that result in the type or number of customers served, new staff positions or major staff changes such as changes in the type of position assigned to the project, Significant SOW revisions shall be submitted to the Executive Director, or designee, via the Program Specialist assigned to the CONTRACTOR. The Executive Director, or designee, will respond to the proposed request for SOW revisions within thirty (30) calendar days after receipt at the Commission office. Final approval of any proposed revisions to the SOW shall require the written approval of the Executive Director or designee in consultation with the Commission legal counsel. The Executive Director reserves the right to elevate significant revisions for formal approval of the Commission. All changes will be incorporated into the Contract and shall become effective on the date of written approval from the Executive Director and/or the Commission.

10. **REIMBURSEMENT OF COSTS**

There will be no payment for services performed and/or expenditures accrued prior to the full execution of this Contract unless previously authorized by Commission action. Reimbursement of costs shall be made

upon CONTRACTOR's satisfactory performance, based upon the Scope of Work and methodology contained in Attachment A as determined by the Commission. The Commission shall allocate the funds to CONTRACTOR as follows:

- A. All funds provided pursuant to this Contract shall be expended by CONTRACTOR in accordance with the budget, as set forth in Attachment B hereto.
- B. All funds will be distributed as detailed in the payment provisions, as set forth in Attachment C hereto.

11. FISCAL AND PROGRAM REPORTING REQUIREMENTS

A. Fiscal Reporting

Contractor agrees to report on fiscal expenditures on a quarterly basis in a format provided by the Commission. The reporting content shall include but is not limited to:

1. Expenditures incurred during the quarter.
2. Challenges and solutions to overcome challenges

Additionally, Quarterly Fiscal Reports must be submitted to the Commission within thirty (30) calendar days after the end of the quarter with the exception of the quarter ending June 30th. The cumulative fiscal report must be submitted by July 15th. Contracts commencing after the start of the quarter will submit a report representative of the actual reporting period (i.e., contract begins August 1st will reflect activity from August 1st through September 30th). A change in contract staff, or other difficulties, does not absolve the CONTRACTOR from this quarterly fiscal reporting responsibility.

In rare and justifiable circumstances, an extension may be requested by the CONTRACTOR. Such requests are to be submitted in writing prior to the due date and shall be directed through the Contract Specialist assigned to the CONTRACTOR.

Quarterly Fiscal Reporting due dates for each contract period:

- QUARTER ending September 30: October 30
- QUARTER ending December 31: January 30
- QUARTER ending March 31: April 30
- QUARTER ending June 30: July 15 (Cumulative Fiscal Report)

In the event the report review date falls on a weekend or holiday, the due date shall default to the next Commission business day.

B. Program Reporting

Contractor agrees to provide a report quarterly for the first year, due 30 calendar days after each quarter and annually for the next three (3) years in a format provided by the Commission. The Commission will provide the reporting format by the end of each quarter for the first fiscal year and by June 30 of the next three (3) years. Quarterly reports will need to be completed by the 30th day following the quarter e.g., April 30 and July 30. A cumulative annual report will need to be completed and submitted by July 30th. This reporting requirement will extend beyond the term of the Contract, requiring reporting on an annual basis through July 2014. The reporting content shall include but is not limited to:

1. A program narrative regarding project progress, accomplishments, activities and/or completion.
2. Information on the type, number and characteristics of participants/providers

3. Information on the type and number of activities conducted
4. Challenges and solutions to overcome challenges
5. Results achieved

Failure to comply with annual reporting may result in Contractor not being eligible to apply for future First 5 Riverside funding opportunities.

Additionally, Quarterly Program Progress Reports must be submitted to the Commission within thirty (30) calendar days after the end of the quarter. Contracts commencing after the start of the quarter will submit a report representative of the actual reporting period (i.e., contract begins August 1st will reflect activity from August 1st through September 30th). A change in contract staff, or other difficulties, does not absolve the CONTRACTOR from this quarterly Program reporting responsibility.

In rare and justifiable circumstances, an extension may be requested by the CONTRACTOR. Such requests are to be submitted in writing prior to the due date and shall be directed through the Program Specialist assigned to the CONTRACTOR.

Quarterly Program Reporting due dates for each contract period:

- QUARTER ending September 30: October 30
- QUARTER ending December 31: January 30
- QUARTER ending March 31: April 30
- QUARTER ending June 30: July 30 (Cumulative Program Progress Report and Direct Service Report)

12. REIMBURSEMENT OF FUNDS TO THE COMMISSION

A. Notwithstanding any other provision herein, Contractor agrees to reimburse, in full, any and all funds received from the Commission, upon request of the Commission, where such funds as determined by the Commission are not, or have not been utilized by Contractor for their purpose as intended by the Commission. The terms and conditions of reimbursement shall be at the sole discretion of the Commission.

Property derived from approved purchases funded by Proposition 10 funds shall be maintained by the Contractor for the uses and purposes provided; Contractor shall administer such property only for the purposes for which the property was granted.

B. Contractor will ensure any and all purchases from the RCCFC awarded New Capacity for High Need Areas Funding are utilized for a minimum of five (5) years after receiving the Contract award. The value of the purchase(s) as indicated on Attachment A will be amortized over the 5 year period, and failure to comply with this paragraph will result in Contractor compensating RCCFC, such compensation to be forwarded immediately upon RCCFC's request, based on the following schedule:

<u>Failure to use for 0-5 purposes</u>	<u>Required Compensation</u>
0 Months - 1 year	100% of value
1 year - 2 years	80%
2 years - 3 years	60%
3 years - 4 years	40%
4 years - 5 years	20%

13. **RCCFC FISCAL REQUIREMENTS**

A. Budget Adjustments

A transfer of no more than 10% (per fiscal year) of the total Contract amount may be considered. The request and justification must be in writing and submitted to the Program Specialist. If approved by the Executive Director, or designee, CONTRACTOR is required to include the request and justification in the Program Progress Report submitted for the quarter in which the transfer is made. Budget adjustments will not change the total Contract amount and additional line items are **not** to be included. Failure of the Commission to discover or object to any unsatisfactory quarterly fiscal reports prior to payment will not constitute a waiver of the Commission's right to require CONTRACTOR to correct such quarterly reports. Budget Adjustments will be considered until June 1st of the current fiscal year.

B. Budget Revisions

Budget revisions are requests to transfer more than 10% of the total Contract amount and/or the addition of line items that were not previously approved. The Executive Director, or designee, will accept proposed budget revisions along with written justification from CONTRACTOR during the current fiscal year. The Executive Director, or designee, will respond to budget revisions within thirty (30) calendar days after receipt at the Commission office. Budget Revisions will be considered by the Executive Director or designee until June 1st of the current fiscal year.

C. Budget Amendments

Necessity for budget amendments to this Contract will be determined by the Executive Director, or designee, and may include, but are not limited to Contract increases or decreases and significant changes to the Scope of Work (SOW). All budget amendments to the Contract shall require formal approval of the Executive Director acting on behalf of the Commission, as provided herein, before they are effective. Major budget amendments, as determined by the Executive Director, in consultation with Commission legal counsel, will require formal approval of the Commission. Contract budget amendments will be considered until June 1st of the current fiscal year.

D. Cost Allocation

CONTRACTOR shall have or establish a cost allocation system to identify prorated costs shared by among multiple funding sources, including Proposition 10 funds. CONTRACTOR's Cost Allocation Plan must be approved by CONTRACTOR's appropriate governing body and submitted with the executed contract.

A Cost Allocation Plan (CAP) is defined as a written summarization that documents the methods and procedures that the contract will use to allocate costs between two or more programs or funding sources. The goal is to ensure that each program or funding source bears its fair share, and only its fair share, of the total costs. The CONTRACTOR must have a method of identifying and distributing program costs that are comprehensive, well documented, and defensible under the Generally Accepted Accounting Principles (GAAP).

A written CAP is required if any of the conditions below are met:

- a. Funded staff members share their time between a First 5 Commission funded program and one or more other grant funded programs.

b. A single-funded staff member shares their time between two or more First 5 Commission funded programs.

c. The same facilities and/or resources are utilized by more than one funded program.

E. Overhead/Indirect Costs

1. Indirect costs shall be based on the CONTRACTOR's official governing board approved Cost Allocation Plan or state/federal approved rate not to exceed 10%. Amendments to this rate will be reviewed and approved on a case-by-case basis.
2. A pass through is defined as those instances where the CONTRACTOR forwards funds obtained from the Commission to a subcontractor and the Commission maintains no relationship or responsibility for the performance of the subcontractor. Proposition 10 funds shall not be used in a manner that will cause payment for indirect costs associated with the CONTRACTOR's funded program more than once. First 5 Riverside will not pay for subcontractor indirect costs as part of CONTRACTOR budget.

F. Revenues Received

Any and all revenue received by the CONTRACTOR (except funds received from the Commission) to operate the program funded pursuant to this Contract shall be reported as revenue received within the monthly fiscal report. All such revenues shall be used to fully compensate expenses within the program funded and/or to provide additional services within the program funded pursuant to this Contract. Any unused revenues shall be deducted from Contract reimbursement, as authorized by the Commission.

G. Payroll Taxes

The Commission shall not be directly responsible for the payment of any taxes on the CONTRACTOR's behalf. In the event that the Commission is required to do so by state, federal or local taxing agencies, CONTRACTOR agrees to promptly reimburse the Commission for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but are not limited to the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and workers' compensation insurance.

14. CONTRACTOR AUDIT REQUIREMENTS

- A. All CONTRACTORS are required to have an annual financial audit. Each CONTRACTOR shall provide a copy of their annual audited financial statements to the Commission covering the fiscal year that funds are received for services provided pursuant to this Contract. The audit will cover the CONTRACTOR's fiscal year and will include a statement of internal controls over financial reporting. All audits shall be performed by either: (1) a Certified Public Accountant who possesses a valid license to practice within the State of California; (2) a Public Accountant currently certified and licensed by the State of California.
- B. CONTRACTORS who have a Single Audit completed, under the auspices of the Federal Office of Management and Budget (OMBA-133), in any given year will be required to have a Program Specific Audit completed under guidelines as stated under Government Auditing Standards. The Program Specific Audit will cover the CONTRACTOR's fiscal year and will include a statement of compliance.
- C. Audits are to be submitted to the Executive Director, or designee, on an annual basis within one hundred and eighty (180) calendar days after the close of the CONTRACTOR's fiscal year. Proposition 10 funds and expenditures must be identified separately within the financial audit. If an audit is not received on or before the required due date and an extension has not been granted, the

audit shall be considered delinquent and immediate corrective action is required. If the CONTRACTOR fails to produce or submit an acceptable audit, the Commission has the authority to withhold funding, and if necessary, secure an Auditor, and the CONTRACTOR shall be liable for all Commission costs incurred in obtaining an independent audit. The cost of the audit will be applied against the contract encumbered amount, thereby reducing the amount of funding available to the program.

15. **INVENTORIABLE EQUIPMENT/VEHICLES**

- A. The title of vehicles or property derived from approved purchases funded by Proposition 10 funds shall be maintained by the CONTRACTOR for the uses and purposes provided; CONTRACTOR shall administer such property only for the purposes for which they were granted.
- B. Inventoriable equipment is items purchased with Proposition 10 funds that cost \$1,000 or more. The CONTRACTOR shall inventory and report any and all equipment purchases meeting this criterion, on the Commission Inventory Record Form. This record must accompany CONTRACTOR's final Quarterly Report submitted at the end of the Contract period. Applicable receipts must be maintained by the CONTRACTOR to validate expenditures and shall be made available as requested during the Commission Administrative Review visits. Ownership and documentation of vehicles shall be maintained by the CONTRACTOR. CONTRACTOR shall submit a copy of the Certificate of Title for vehicle ownership with the final Quarterly Reports. It is understood that the CONTRACTOR is liable for any/all liability and damages resulting from the use and/or misuse of equipment/vehicles purchased with Proposition 10 funds. Equipment/vehicles shall not be used for personal use by the CONTRACTOR, and/or their employees, agents, subcontractors and/or collaborating partners.

16. **REVERSION OF ASSETS**

Real or Personal Property Assets. Any real property or moveable or immovable personal property under CONTRACTOR's control or ownership that was acquired or improved in whole or in part with Proposition 10 funds disbursed under this Contract, or under any previous Contract between the Commission and CONTRACTOR, where the original cost exceeded one thousand dollars (\$1,000.00) shall either be, at the election of the Commission as determined by the Executive Director, or designee: (1) used by CONTRACTOR for the services described in Exhibit A for a period of five (5) years after termination or expiration of this Contract, unless a longer period is specified in Exhibit A; or (2) disposed of and proceeds paid to the Commission in a manner that results in the Commission being reimbursed in the amount of the current fair market value (assuming depreciation in accordance with customary business practices) of the real or personal property less any portion of the current value attributable to CONTRACTOR's out of pocket expenditures using non-commission funds for acquisition of, or improvement to, such real or personal property and less any direct and reasonable costs of disposition.

- A. In furtherance of the foregoing, if the Commission selects continued use of the capital asset, as provided herein, the CONTRACTOR hereby agrees that it shall be subject to an ongoing operating and use covenant relating to the subject real or personal property. The foregoing covenant shall survive the termination or expiration of this Contract and shall be actionable at law or in equity by the Commission against CONTRACTOR and its successors in interest.
- B. In the event the Commission selects disposition of the subject real or personal property, the CONTRACTOR shall exercise due diligence to dispose of such property in conformity with applicable laws and regulations and in accordance with customary business practices. The net proceeds of such disposition shall be disbursed directly to and be payable to the Commission upon the close of the applicable disposition transaction, such as close of escrow for the sale of real property, transfer of a motor vehicle "Certificate of Title" in accordance with applicable California Vehicle Code requirements, or completion of sale of personal property by bill of sale in accordance with Uniform Commercial Code (UCC) requirements.

17. **TOBACCO CONTROL POLICY**

CONTRACTOR shall abide by the Comprehensive Tobacco Control Policy, incorporated herein by reference, and as may be amended from time to time. CONTRACTOR shall have tobacco education and cessation materials visibly available and accessible to clients participating and to staff funded from the Commission funded activities. The Comprehensive Tobacco Control Policy is set forth as Attachment D hereto.

18. **CONDUCT OF BUSINESS**

- A. CONTRACTOR shall be in compliance, and shall remain in compliance with all applicable state and/or federal laws, regulations or requirements during the term of the Contract.
- B. CONTRACTOR shall conduct its business, pursuant to this Contract, in compliance with all applicable state, and/or federal laws, regulations or requirements.
- C. CONTRACTOR shall obtain and shall maintain all applicable business and/or professional licenses, insurances, and/or accreditations, in good standing, which are required under the laws of the State of California or the federal government at all times while performing services under this Contract.
- D. Agencies that are governed by a regulatory or licensing entity shall advise and forward to the Commission any and all documentation of regulatory/licensing violations, findings and responses to such violations and/or findings within 24 hours of receipt of notice of violation from the governing entity. Agencies shall submit a copy of the response to the governing entity within 24 hours after sending the response.
- E. CONTRACTOR shall immediately notify the Commission upon the filing of any action of bankruptcy.
- F. CONTRACTOR shall immediately notify the Commission upon the commencement of any litigation, whether CONTRACTOR is the plaintiff or defendant, where such litigation may interfere with the ability of CONTRACTOR to perform its duties under this Contract, and where the Commission is not a party to such litigation.
- G. CONTRACTOR shall immediately notify the Commission upon the commencement of any investigation, and/or activity by a regulatory agency against CONTRACTOR, which may interfere with the ability of CONTRACTOR to perform its duties under this Contract.

19. **RECORDS MANAGEMENT AND MAINTENANCE**

- A. The CONTRACTOR shall make reports to the Commission in the required format and containing information as may be required by the Commission.
- B. CONTRACTOR shall submit quarterly reports within thirty (30) calendar days following the end of the quarter, and the end of the term of the Contract. This requirement includes:
 - 1. Submission of the Program Progress Report on a quarterly basis;
 - 2. Submission of the Inventory Record Form to be part of the fourth quarter reports.
- C. CONTRACTOR shall retain such reports, and all records associated with this Contract for at least five (5) years following the close of the fiscal year in which this Contract is in effect. This obligation is not terminated upon termination of this Contract, whether by recessions or otherwise. CONTRACTOR agrees to require any subcontractors to retain all records associated with the Contract for the same time period.
- D. Accounting information and transactions shall be recorded and reported in accordance with generally accepted accounting principles (GAAP).

- E. Where medical records, and/or client records are generated under this Contract, CONTRACTOR shall safeguard the confidentiality of the records in accordance with all state and federal laws, and all regulations promulgated hereunder, including the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-91, enacted August 21, 1996, and the laws and regulations promulgated subsequent thereto.
- F. Each CONTRACTOR must maintain a written customer confidentiality policy and maintain a written protocol to ensure CONTRACTOR staff is aware of and abide by said policy to include a signed confidentiality contract.

20. PUBLIC DISCLOSURE OF DOCUMENTS

CONTRACTOR acknowledges and agrees that information, communications, and documents given by or to the Commission and meetings involving the Commission members, staff, or advisory committee members may be subject to applicable law on public disclosures and/or public meetings. CONTRACTOR shall cooperate with the Commission in order that it may fully comply with the requirements of such laws and regulations.

21. INSPECTIONS, PROGRAM MONITORING AND CONTRACT ADMINISTRATIVE REVIEW BY COMMISSION

- A. Commission representatives shall review, audit and inspect the CONTRACTOR through mandatory periodic Administrative Review visits for compliance with the terms of this Contract. During the Administrative Review visits, CONTRACTOR representatives from both fiscal and program areas **must** be present. All books, financial records and program records including verification of target(s) and other documents relating to the performance of this Contract must be open to inspection, examination, or copying during normal business hours by the Commission staff or duly authorized representatives from the state or federal government. Records shall be made available at reasonable times at CONTRACTOR's place of business or at such other mutually agreeable location in the County of Riverside, State of California.
- B. Upon completion of the Program Monitoring and Administrative Review visit, the CONTRACTOR will be mailed a report summarizing the results of the Administrative Review visit within forty-five (45) calendar days of the visit. The CONTRACTOR may be required to respond to concerns or requests as specified in the Administrative Review report within thirty (30) calendar days of receipt.

22. GOVERNING LAW AND VENUE

- A. This Contract is entered into under the provisions of Health and Safety Code section 130100 et seq., as may be amended from time to time, and any other applicable law.
- B. This Contract, and its construction and interpretation as to validity, performance and breach shall be construed under the laws of the State of California. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- C. The provision of the Government Claims Act (Government Code Section 900 et seq.) must be followed first for any disputes under this Contract.
- D. All actions and proceedings arising in connection with this Contract shall be tried and litigated exclusively in state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Riverside, State of California.

23. CONTRACTOR SUBCONTRACTS FOR WORK OR SERVICES

- A. The Commission holds CONTRACTOR solely responsible for the performance of all duties and obligations under this Contract. CONTRACTOR agrees and understands that Commission does not enter into, or assume any legal relationship with any subcontractor of CONTRACTOR for

performance under this Contract. CONTRACTOR agrees to remedy any and all breaches of any Contracts with any subcontractor, and further agrees that CONTRACTOR may not look to the Commission for any payment, liability, or assistance in the remedy of any actual or alleged breach.

- B. CONTRACTOR shall identify any other organization whose cooperation/participation is necessary to ensure the success of the project and what specific roles these key partners will play. Before initiating programmatic operations, CONTRACTOR shall enter into a Memorandum of Understanding (MOU), Contract, Subcontract, or similar document with any such organization, with signatures affixed by an official authorized to bind the organization. CONTRACTOR shall provide said document(s) to the Commission Executive Director, or designee.
- C. Any and all subcontractor(s) shall conform to all requirements of the Commission and any Contract between the CONTRACTOR and the Commission. Copies of Memorandum of Understanding (MOU), Contract, Subcontract, or similar document between the CONTRACTOR, subcontractor and any participating third parties, shall be submitted to the Commission within thirty (30) calendar days from the start date of the document.

24. PUBLICITY AND ATTRIBUTION REQUIREMENTS

- A. Upon signing this contract, CONTRACTOR shall publicize their funded program and partnership with the Commission by creating a press release to be distributed to local media outlets. The press release shall be sent to First 5 Riverside for review and approval within 14 days of signing of contract. No later than 5 days after the press release is reviewed and approved by First 5 Riverside, the press release shall be distributed to local media outlets. Should guidance be needed on this requirement, please contact Commission public information specialist.
- B. CONTRACTOR shall include the following acknowledgment of the Commission and Proposition 10 funding in all materials produced for the purpose of public education and outreach related to Commission funded programs. These materials include but are not limited to the following: brochures, workbooks, flyers, circulars, posters, games, television, radio and print advertising, public service announcements and video news releases, calendar/event listings, presentations, telephone hold messages, outdoor advertising and vehicles. The wording of the First 5 Riverside attribution shall be one of the following:

"Made possible by funding from First 5 Riverside"

"Funded by First 5 Riverside"

"Funded by First 5 Riverside - the Riverside County Children & Families Commission"

"Hecho posible por medio de fondos de Primeros 5 Riverside"

"Financiado por Primeros 5 Riverside"

For events, conferences or programs with multiple funders, one of the following attributions shall be used:

"Funded in part by First 5 Riverside"

"Funded in part by First 5 Riverside - the Riverside County Children & Families Commission"

"Made possible by funding from First 5 Riverside"

"Financiado parcialmente por Primeros 5 Riverside"

"Financiado parcialmente por Primeros 5 Riverside - Comisión de Niños y Familias del Condado de Riverside"

When space is limited (buttons, pencils, pens, etc.), attribution may be omitted. However, CONTRACTORS shall contact the Commission's public information specialist to determine an

appropriate method of providing attribution to the public regarding the funding source for such items.

- C. The approved First 5 Riverside logo (graphic) shall be used on materials specific to the Commission funded program. CONTRACTOR shall use the approved First 5 Riverside logo (graphic) on public education and outreach materials in accordance with the First 5 Riverside graphics attribution standard as posted on the Commission public web site (www.rccfc.org).
- D. CONTRACTOR shall provide the Commission staff/public information specialist a copy of all public information/relations products (such as flyers, newsletters, posters, etc.) as soon as possible but not later than fourteen (14) calendar days prior to submitting to print. News releases should be submitted as soon as possible but not later than seven (7) days before public release is scheduled.
- E. The Commission public information specialist shall provide guidance on procedures for logo usage and printed public relations material in accordance with the Commission policies. Policies will be available on the Commission public website (www.rccfc.org).

25. NO POLITICAL/RELIGIOUS ACTIVITY

CONTRACTOR agrees that it shall not require client participation in political or religious activities in order to receive services for programs funded by the Commission. Furthermore, Proposition 10 funds shall be used only for the purposes specified in this Contract and in any attachments hereto. No Proposition 10 funds shall be used for any political activity, or to further the election or defeat of any candidate for political office. No Proposition 10 funds shall be used for purposes of religious worship, instruction or proselytizing.

26. WORK PRODUCT

- A. The Commission shall be the owner of the following items incidental to this Contract upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Contract is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of the Commission.
- B. Material produced in whole or in part under this Contract shall not be subject to copyright in the United States or in any other country except as determined at the sole discretion of the Commission. The Commission will have the unrestricted authority to publish, disclose, distribute, and use in whole or in part, any reports, data, documents or other materials prepared under this Contract.

27. NON-DISCRIMINATION

This Contract hereby incorporates by reference the provisions of Title 2, CCR. Section 8107 et seq., as may be amended from time to time. CONTRACTOR agrees to comply with the provisions of Title 2, CCR, Section 8107 et seq. and further agrees to include this Non-Discrimination clause in any and all subcontracts to perform services under this Contract.

28. INDEPENDENT CONTRACTOR

It is understood and agreed that CONTRACTOR is an independent contractor and that no relationship of employer-employee exists between the CONTRACTOR and the Commission. The CONTRACTOR, nor CONTRACTOR's officers, agents, employees or subcontractors, shall not be entitled to any Commission paid employee benefits, including Workers' Compensation.

29. **HOLD HARMLESS/INDEMNIFICATION**

CONTRACTOR shall indemnify and hold harmless the Commission, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees or COUNTY) from any and all liability whatsoever, including wrongful death, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in anyway relating to this Contract, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subcontractors, agents or representatives from this Contract. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

CONTRACTOR's obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe CONTRACTOR's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

- A. Where CONTRACTOR is a public entity, as defined by applicable law, the Commission and CONTRACTOR, to the extent that liability may be imposed on the Commission by the provisions of Government Code Section 895.2, shall be liable for their own acts or omissions, including all claims, liabilities, injuries, suits, and demands and expenses of all kinds which may result or arise out of any alleged malfeasance or neglect, caused or alleged to have been caused by either the Commission or CONTRACTOR, their employees or representatives, performance or omission of any act or responsibility of either party under this Contract. In the event that a claim is made against both the Commission and CONTRACTOR, both parties shall cooperate in the defense of said claim and to cause their insurers to do likewise.
- B. CONTRACTOR agrees to indemnify the Commission for all federal/state withholding or state retirement payments, which the Commission may be required to make by the federal or state government as a result of this Contract. If for any reason, CONTRACTOR is determined not to be an independent contractor to the Commission in carrying out the terms of the Contract, such indemnification shall be paid in full to the Commission upon sixty (60) calendar days written notice to CONTRACTOR if a federal and/or state determination is made that such payment is required.

30. **INSURANCE**

Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Contract.

Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR's performance of its obligations hereunder. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this contract or be no less than two (2) times the occurrence limit.

Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Contract, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

General Insurance Provisions - All lines:

Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement or a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

Professional Liability Insurance:

Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Contract, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five (5) years beyond the termination of this Contract.

The CONTRACTOR's insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Contract. Upon notification of self insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CONTRACTOR's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Contract with the COUNTY, or 2)

procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

CONTRACTOR shall cause CONTRACTOR's insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Contract shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. *CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.*

It is understood and agreed to by the parties hereto that the CONTRACTOR's insurance shall be construed as primary insurance, and the COUNTY's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

If, during the term of this Contract or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or, the term of this Contract, including any extensions thereof, exceeds five (5) years the COUNTY reserves the right to adjust the types of insurance required under this Contract and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the COUNTY.

CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Contract.

Adjustment and/or Waiver of Requirements:

The Executive Director, or designee, in consultation with the Commission's Risk Manager, may adjust the insurance requirements set forth herein as deemed necessary for the contract, and/or may waive insurance requirements where not applicable to the contract. Insurance endorsements shall be submitted to the Commission before contract work commences.

31. ASSIGNMENT

This Contract shall not be assigned by CONTRACTOR, either in whole or in part, without prior written consent of the Commission, as approved and authorized by formal action of the Commission.

32. **ALTERATION AND/OR AMENDMENT**

No alteration, amendment, or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties hereto. Oral understandings or contract not incorporated herein shall not be binding on any of the parties hereto. As provided herein, the Executive Director of the Commission, acting on behalf of the Commission, may alter or revise this Contract on behalf of the Commission. Major alterations and/or amendments, as determined by the Executive Director in consultation with Commission legal counsel, will require formal approval of the Commission. Except as provided herein, the parties expressly recognized that individual Commission members, advisory committee members, or staff to the Commission is without authorization to either change or waive any requirements of this Contract without formal action of the Commission.

33. **CONFLICT OF INTEREST**

CONTRACTOR shall have no interest, and shall not acquire any interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this Contract.

34. **WAIVER AND SEVERABILITY**

Any waiver by the Commission of any breach of any one (1) or more terms of this Contract shall not be construed to be a waiver of any subsequent or other breach of the same term of any other term herein. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

35. **DISALLOWANCE**

In the event CONTRACTOR receives payment for services under this Contract, which is later disallowed for nonconformance with the terms and conditions herein, CONTRACTOR shall promptly refund the disallowed amount to the Commission upon request. The Commission retains the option to offset the amount disallowed from any payment due to the CONTRACTOR under this Contract, or under any other Contract, or Contract between CONTRACTOR and the Commission.

36. **OFFICIAL DOCUMENTS**

Upon the Contract approval by the Commission, one (1) completed set of this document will be sent to the CONTRACTOR. Such copy shall be the officially approved Contract for the conduct of the approved project.

37. **ENTIRE CONTRACT**

This Contract constitutes the entire Contract between the parties hereto with respect to the subject matter hereof and all prior or contemporaneous Contract of any kind of nature relating to the same shall be deemed to be merged herein. Any modifications to the terms of this Contract shall be by the provisions of the section entitled "alteration and/or amendment" herein.

38. **NONEXCLUSIVE CONTRACT**

CONTRACTOR understands that this is not an exclusive Contract and that the Commission shall have the right to negotiate with and enter into Contracts with others providing the same or similar services as those provided by CONTRACTOR as the Commission desires, and at the sole discretion of the Commission.

39. **CERTIFICATION OF AUTHORITY TO EXECUTE THIS CONTRACT**

CONTRACTOR certifies that the individual signing herein has authority to execute this Contract on behalf of CONTRACTOR, and may legally bind CONTRACTOR to the terms and conditions of this Contract, and any attachments hereto.

40. **COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State, and Federal law now in force or which may hereafter be in force with regard to this Contract. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action against CONTRACTOR, whether the Commission be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and the Commission.

41. **CONFLICTS IN INTERPRETATION**

In the event of conflict in interpretation by the parties of the provisions contained in the numbered sections of this Contract and the provisions contained in the Attachments hereto, the provisions of the attachments in the Contract shall prevail over those in numbered sections.

**ATTACHMENT A:
SCOPE OF WORK (SOW)**

The Redevelopment Agency for the County of Riverside (RDA) will develop and construct a new child care facility in the Romoland area of Menifee located at: 25625 Briggs Road. This new facility will enable Child Development Incorporated (CDI), a child care provider subcontracted through RDA, to serve 160 children, ages 2-5. This new facility will provide 160 licensed child care slots (12 toddlers and 148 preschool-aged children). The Romo/Homeland Community and Childcare Center and Park Project is a 25,000 square foot facility located on approximately 12.05 acres of land will have 7 classrooms, 1 designated for toddlers and the remaining 6 classrooms for preschool-aged children. 10,000 square feet of the facility will be specifically used for child care services including classrooms, administrative space, a full service kitchen for food preparation (including a walk-in refrigerator and freezer) and an outdoor play area. The remainder of the facility will be utilized as a community center; and is not funded with First 5 Riverside dollars.

RDA must comply with the California Environmental Quality Act (CEQA) and its implementation regulations.

The RDA Child Care Center will be open from 6:30 a.m. – 6:00 p.m. Monday through Friday, year round. RDA will cause CDI to incorporate a marketing plan to secure enrollment in advance to the opening of the child care center by implementing the following strategies: flyers and presentation to Romoland school board members; banner posted at school site during construction phase; contacting families on the Riverside County Office of Education Centralized Eligibility Waiting List according to required time-lines prior to enrollment date; and distribution of flyers at community events/meetings on an on-going basis.

RDA will implement high quality facility standards related to the physical classroom characteristics. Classroom characteristics will include but not be limited to: child-sized sinks and toilets within or directly accessible to the classrooms; built-in cabinets and changing tables; storage space and lots of interior and exterior windows. The outdoor environment will provide a self-contained play area for toddlers that is protected from older children and designed to meet their needs. The physical environment will be rated annually using the Infant Toddler Environment Rating Scale Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R) by fully trained teaching staff and the program director.

RDA will contract with CDI, a qualified, licensed and experienced child care provider, under a low cost lease agreement for a minimum of five years. RDA will cause CDI trained teachers to implement evidenced based High Scope curricula; designed to encourage a flexible daily schedule and incorporates the different learning needs of toddlers and preschoolers. The trained teachers will focus on the following learning domains: social/emotional development, cognitive development, language development, physical development and nutrition education. RDA will cause the trained teachers to implement the Desired Results Development Profile DRDP-IT (2010) and the DRDP-PS (2010) for assessment of the children within the first 60 days of program entry and every 6 months thereafter. RDA will cause CDI to maintain Title 5 teacher- child ratios of 1:4 for toddlers and 1:8 for preschoolers.

Through this capital development project, funding is being allocated for the following capital expenditures:

Capital Expenditures:

- Interior finishes including: wall finishes, paint, ceramic tile, flooring, bases, curbs and trim as well as ceilings and fixtures.
- Landscaping/courtyard/playground including: grading, irrigation, ground cover and landscaping.
- Fire Protection System
- Security System

Subcontractors:

RCCFC Contract - Investment of Funds
Template Approved 10-23-06 – Resolution 06-69
Template Revised 12-04-06 – Resolution 06-79
Template Revised 04-22-09 – Reso 09-21
Template Revised 04-22-10 – Reso 10-14

Costs for Construction Contractor and Contingencies to include: General Conditions, General Contractors Overhead and Profit (OH & P), Escalation to Mid of Contingencies (General Contractor: Edge Development 23768 Via Industria Suite 101 Temecula, Ca 92590 (951)296-0776).

Equipment greater than \$1,000:

- Playground equipment including:
 - preschool and infant/toddler play structures with bi-lateral climbers- 2
 - totem climbers-2
 - ADA transfer assembly
 - S-loop climber-1
 - Steps-1
 - crawl tube-1
 - dual chute slide-1
 - shade structures-2 (24 X 44 foot and 10 X 20 foot sun shades)
 - 6 X 6 polytone playhouse-1
 - rubber safety structure -1
 - cool grass ground cover-1

(Note: this is a sample projection and may be changed according to the specific needs indicated by RDA; but may not exceed the line item amount of \$45,000.)

Commercial Kitchen Equipment:

- Major kitchen appliances, storage and workspace fixtures

Intended results to be reported in the quarterly Program Progress Reports (PPRs) and Direct Service Activity Reports; information to be shared with RCCFC staff during quarterly site visits:

Targets:

1. By January 31, 2012, RDA will complete the new capital development construction project.
2. By January 31, 2012, RDA will cause its subcontractor CDI to provide child care to 160 children, ages 2-5, at the RDA child care facility, as reported quarterly.
3. By January 31, 2012, RDA will cause its subcontractor CDI to document the number of children with special needs that received child care at the RDA child care facility.
4. By January 31, 2012, RDA will cause its subcontractor CDI to implement the High Scope curriculum in the 7 new classrooms at the RDA child care facility.
5. By January 31, 2012, RDA will cause its subcontractor CDI to implement the DRDP-IT (2010) and the DRDP-PS (2010) in the 7 new classrooms at the RDA child care facility.
6. By January 31, 2012, RDA will cause its subcontractor CDI to implement the ITERS-R and ECERS-R in the 7 new classrooms at the RDA child care facility.

Please Note: CDI is the provider selected by RDA and all language in the scope of work reflects CDI as the provider. If CDI is no longer able to provide the services during the required contractual five years; F5R is requiring approval of the provider selected for this facility.

ATTACHMENT B: BUDGET



Riverside County Children & Families Commission
 A public entity exempt from Proposition 13 tobacco tax funds

Agency Name: Riverside County Economic Development Agency
 Contract Number: 3105 NC-11
 Program Name: Menifee Child Care Center
 First 5 Riverside Funds: \$750,000
 List Other Program Source(s) below: List Other Program Fund(s) below: \$3,250,000
 Mid-County Redev. Capital Improvement Funds
 \$4,000,000

First 5 Riverside Program Budget: August 1, 2010 Through June 30, 2011

Capital Expenditures	First 5	Other
1 Substructure	\$0	\$312,000
2 Superstructure	\$0	\$180,000
3 Exterior Closure	\$0	\$725,500
4 Roofing	\$0	\$210,100
5 Interior Construction	\$270,000	\$225,400
6 Interior Finishes	\$0	\$135,000
7 Plumbing	\$0	\$151,300
8 HVAC	\$0	\$201,650
9 Fire Protection System	\$40,000	\$62,500
10 Electrical Power and Lighting	\$0	\$248,500
11 Electrical System	\$0	\$90,500
12 Landscaping/Courtyard/Playground	\$116,248	\$116,248
Subtotal Capital Expenditures:	\$426,248	\$2,642,450
Subcontractors	First 5	Other
1 Construction Contractor and Contingencies	\$126,540	\$707,550
General Conditions, OH & P, Escalation to Mchpt of Const. & Contingency	\$126,540	\$707,550
Subtotal Subcontractors:	\$253,080	\$1,415,100
Equipment Less Than \$1000	First 5	Other
Subtotal Equipment Less Than \$1000:	\$0	\$0
Equipment Greater Than \$1000	First 5	Other
1 Playground Equipment	\$45,000	\$0
2 Commercial Kitchen Equipment	\$152,212	\$0
Subtotal Equipment Greater Than \$1000:	\$197,212	\$0
Total Budget	\$750,000	\$3,250,000

RCCFC Contract - Investment of Funds
 Template Approved 10-23-06 - Reso 06-69
 Template Revised 12-04-06 - Reso 06-79
 Template Revised 04-22-09 - Reso 09-21
 Template Revised 04-22-10 - Reso 10-14

BUDGET NARRATIVE/JUSTIFICATION FOR USE OF FUNDS

Agency Name: Riverside County Economic Development Agency
 Contract Number: 3105 NC-11
 Program Name: Menifee Child Care Center

First 5 Riverside Program Budget: August 1, 2010 Through June 30, 2011

(Use the space below to provide a brief narrative statement to justify EACH line item within your program budget.)

Capital Expenditures	
Interior Finishes	\$270,000
Fire Protection System	\$40,000
Landscaping/Courtyard/Playground	\$116,248
Subcontractors	
Construction Contractor and Contingencies	\$126,840
Equipment Less Than \$1000	
Equipment Greater Than \$1000	
Playground Equipment	\$45,000
Commercial Kitchen Equipment	\$152,242
Total First 5 Funding	\$750,000

Wall finishes, paint, ceramic tile, flooring, bases, curbs and trim, ceilings, fixtures, toilet accessories, carpet, doors, frames, hardware, windows, cabinetry

Fire alarm and security

Grading, irrigation, ground cover, shrubs, bushes

General Conditions, General Contractors OH & P, Escalation to Midpoint of Construction and Contingencies

Preschool and Infant/Toddler Play Structures with Bi-lateral Climbers, Totem Climbers, ADA Transfer Assembly, S-Loop Climber, Steps, Crawl Tube, and Dual Chute Slide. Shade Structures (24 x 44 foot and 10 x 20 Sun Shades); 6 x 6 foot Polytone Playhouse, Rubber Safety Structure and Cool Grass ground cover. (NOTE: This is only a sample projection and may be changed according to the specific needs indicated by the Child Care Provider and/or EDA)

Major Commercial Kitchen Appliances (see listing)

ATTACHMENT C: PAYMENT PROVISIONS

A. **FISCAL**

The maximum reimbursable amount over the life of this contract, excluding any extensions, is **\$750,000.00** as awarded by the Riverside County Children and Families Commission (RCCFC), also known as First 5 Riverside, provided pursuant to Proposition 10.

1. **Maximum Reimbursable Amount**

Total payment under this contract shall not exceed:

INITIAL FUNDING PERIOD: 08/01/10 – 06/30/11	\$750,000.00
PERIOD 2: 07/01/11 – 01/31/12	\$0.00

2. **Method, Time and Schedule Conditions of Payment**

- a. Initial advance payment will be one-half of the current funding period total contract amount and shall be disbursed at the commencement of the contract so long as all of the following conditions have been met:
 - 1. The contract has been approved by the Commission.
 - 2. The contract has been fully executed by all parties.
 - 3. All applicable licenses in order to comply with the terms of the Scope of Work (Attachment A) are current and valid.
 - 4. Commission staff reviewed and approved Cost Allocation Plan.
- b. Subsequent disbursements will be reconciled and paid based on actual program expenditures, and a projection of those expenses through the next quarter ending date, minus funds already paid year-to-date. However, in no instance shall the quarterly payment exceed one-quarter (1/4) of the contract total. All disbursements must also be in compliance with the Fiscal Requirements of Section 13 of the Contract.
- c. Under special circumstances, CONTRACTOR may request additional funding for quarterly disbursement. A supplemental disbursement request along with justification must be submitted, in writing, to the Executive Director or designee. If approved, total funding disbursed shall not exceed total contract amount for the contract term. The Executive Director, or designee, reserves the right to withhold or reduce disbursement of funds if Contractor fails to: 1) comply with all quarterly program and financial reporting requirements by the indicated due date as set forth in Section 11 of the Contract, 2) if results achieved are not as projected and no Commission approved plan is in place for improvement or 3) if the Contractor is not in compliance with any provision contained within this Contract.

**ATTACHMENT D:
COMPREHENSIVE TOBACCO CONTROL POLICY**

As a material condition of the Contract, the CONTRACTOR shall agree that the CONTRACTOR and the CONTRACTOR's employees, while receiving funding from the Commission:

1. Shall not use tobacco products while using the CONTRACTOR's property e.g., vehicle, equipment;
2. Shall not sell, offer or provide tobacco products on CONTRACTOR 's premises;
3. Shall participate in Commission sponsored in-service trainings on tobacco education and cessation and will have tobacco education and cessation materials visibly available and accessible to clients participating in activities funded by Proposition 10 funds;
4. Shall assure that the CONTRACTOR and its employees have no current business association or relationship with the tobacco industry, and further agrees to neither accept nor solicit financial contributions, sponsorships, gifts, or services from any tobacco company, executive, or tobacco-related function; and
5. Shall make a reasonable effort to divest of all investments in companies that derive 15% or more of their revenues from tobacco.

The Commission may terminate for default or breach of this Contract and any other Contract the CONTRACTOR has with the Commission, if the CONTRACTOR or CONTRACTOR 's employees, are determined by the Executive Director, or designee, not to be in compliance with the conditions set forth herein.

If the CONTRACTOR or CONTRACTOR's employees, are determined by the Executive Director, or designee, not to be in compliance with the conditions set forth herein, the Commission may terminate for default or breach of this Contract and any other Contract the Commission has with the CONTRACTOR.

In instances where the CONTRACTOR is part of a larger entity, and where the entity has an investment policy set by governance officials other than the CONTRACTOR, and the CONTRACTOR is not directly involved in such investment decisions, CONTRACTOR agrees to the provisions herein as required in the programs and activities under the direct control of the CONTRACTOR to the satisfaction of the Executive Director, or designee. Activities of the larger entity other than investment decisions, which are not under the direct control of CONTRACTOR, shall not be considered to be in violation of CONTRACTOR's activities pursuant to the policy.

Adopted July, 2002
Amended Sept., 2002
Amended July, 2005
Amended May, 2006