

FIRST FIVE YUBA COMMISSION
CONTRACT NO: A(FY)-###

THIS AGREEMENT ("Agreement") is made this # day of MONTH AND YEAR by and between the FIRST FIVE YUBA COUNTY, CHILDREN & FAMILIES COMMISSION ("Commission"), and NAME OF CONTRACTOR, a TYPE OF BUSINESS with its principal place of business at LEGAL ADDRESS ("Provider"), individually referred to herein as a "party" and collectively as the "parties."

RECITALS

WHEREAS, the Commission is authorized by Health and Safety Code Section 130140.1 to make contracts as necessary to implement its strategic plan; and

WHEREAS, the Commission is authorized by those provisions to contract with persons specially trained, experienced, expert and competent to perform special services in Yuba County; and

WHEREAS, Provider warrants that it is qualified and agreeable to render the work proposed TYPE OF AGREEMENT AND SERVICES TO BE PROVIDED, which is attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, the Commission at their DATE meeting, approved continuing the original contract with Provider in reference to the Commission Policies and Procedures Manual, Section 204 – 3.1.3.

NOW, THEREFORE, the Commission and Provider agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth in full.

2. TYPE OF AGREEMENT.

A. Provider agrees to use the funds awarded under this Agreement to pay for the services specified in its DATE, Response to the Commission's request: RFQ (**Exhibit A**) for Provider's services as PROJECT NAME of the Commission.

B. Provider shall provide all facilities, equipment, personnel, labor, and materials necessary to provide the foregoing services in accord with this Agreement. Provider warrants that it and all its employees have all necessary licenses and/or permits required both by law and all appropriate agencies and agrees to maintain such licenses and permits in effect for the duration of this Agreement. Failure to maintain all the licenses and permits shall be deemed a breach of this Agreement and constitutes grounds for termination of this Agreement by Commission. In the event of any conflict between any of the provisions of this Agreement (including Exhibits) the provision that requires the highest level of performance from Provider for the Commission's benefit shall prevail.

3. CONTRACT TERM.

- A. This Agreement shall be a **LENGTH** term agreement to begin on the date written above and shall terminate with the completion of the **PROJECT** which means that all work required by this Agreement shall be completed by that date.

4. TOTAL PRICE CEILING. Notwithstanding any other provision of this Agreement, in no event shall the cost to Commission for the work to be provided herein exceed the maximum sum of **DOLLAR AMOUNT (\$\$,\$\$\$)** for the term of the Agreement or such other sums as are budgeted for Provider's services by the Commission in a fiscal year. Notwithstanding anything to the contrary in **Exhibit A** attached hereto.

5. METHOD OF PAYMENT.

A. Provider shall invoice the Commission not more frequently than monthly for its services provided under this Agreement and for reimbursable expenses as outlined in its response to the Request for **QUOTE/PROPOSAL** to provide services attached hereto as **Exhibit A**. Invoices will reflect services for the period billed indicating the dates of service, provider of service, and the amount of time incurred. Other expenses shall be supported by vendor invoices or other documentation acceptable in the reasonable discretion of Commission's Executive Director.

B. Commission staff will process timely invoices before processing late ones. Any invoice submitted after forty-five (45) days after each fiscal year and/or termination of this Agreement will not be honored by Commission, and Commission shall have no obligation to pay any such amount for the services provided, unless Provider has obtained prior written Commission approval to the contrary.

C. Provider assumes full financial liability for services provided outside the terms of this Agreement.

6. INSURANCE.

A. General Liability. Provider shall maintain and provide the Commission with proof of a commercial general liability insurance policy in the amount of one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate.

B. Automobile. Where the services to be provided under this Agreement involve or require the use of any type of vehicle by the Provider in order to perform said services, the Provider shall also maintain and provide the Commission with proof of a comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000). Commission acknowledges that Provider does not own any automobiles but maintains non-owned automobile liability insurance coverage and agrees to accept such coverage in satisfaction of the requirements of this section 7.B.

C. Worker's Compensation. If required by California law, Provider shall also maintain worker's compensation insurance in accordance with California law, and employer's liability insurance with a limit of no less than one million dollars (\$1,000,000) per occurrence.

D. Professional Liability of not less than one million dollars (\$1,000,000) as appropriate to the service being rendered, including coverage for legal malpractice, error, and/or omission.

E. Said policies shall remain in force through the life of this Agreement and shall be payable on a claims made basis. Additionally, Commission shall be named as additional insured on the policies required by sections 7.A. and 7.B. above. Failure to provide and maintain the insurance required by this Agreement will constitute a material breach of the Agreement.

F. During the term of this Agreement, Provider shall furnish the Executive Director with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Provider shall provide upon request complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

7. ASSIGNMENT AND SUBCONTRACTS.

A. Assignment. Provider shall not assign, delegate, or transfer its duties, responsibilities, interests, or any portion of the work to be performed under this Agreement without the prior express written consent of Commission. Any assignment without such approval shall be void and, at Commission's option, shall terminate this Agreement. Any change in the corporate structure of Provider, the governing body of Provider, the management of Provider or the transfer of assets in excess of 10 percent of the total assets of Provider shall be deemed an assignment of benefits under the terms of this Agreement requiring Commission approval.

B. Subcontracting. Provider shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior express written consent of Commission. If Commission consents to Provider's hiring of subcontractors, all subcontractors shall be deemed to be employees of Provider, and Provider agrees to be responsible for their performance. Provider shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. Provider shall cause all of the provisions of this Agreement, in its entirety, to be included in and made a part of any subcontract executed in the performance of this Agreement.

C. All subcontracts, inclusive of service provisions and budgets, shall be in writing and copies provided to Commission within thirty (30) days of execution of the subcontract.

8. OWNERSHIP OF DOCUMENTS, WORK PRODUCTS, AND DURABLE GOODS.

A. All professional and technical documents and information developed under this Agreement, and all work products, including writings, work sheets, reports, and related data, materials, copyrights and all other rights and interests therein, shall become the property of the Commission, and Provider agrees to deliver and assign the foregoing to the Commission, upon completion of the services hereunder or upon any earlier termination of this Agreement. Provider assigns the work products, as and when the same shall arise, for the full terms of protection available throughout the world. In addition, basic data prepared or obtained under this Agreement shall be made available to the Commission without restriction or limitation on their use. No charge will be made for any of the foregoing.

B. During and following the term of this Agreement, Provider shall not use, distribute or otherwise circulate any of the materials developed pursuant to this Agreement and for which Provider was compensated by the Commission without the express written permission of the Executive Director or his/her designee.

C. Notwithstanding the foregoing, Provider may keep copies of materials prepared under this Agreement and may make use of those materials in its law practice generally, subject to its duties to protect the Commission's confidences.

9. INDEMNIFICATION. Provider agrees to indemnify, defend (by counsel reasonably satisfactory to Commission's counsel), and hold Commission harmless from any and all liabilities and from any and all claims and losses to anyone who may be injured or damaged by reason of Provider's willful misconduct or negligent performance of this Agreement. Provider agrees to immediately notify Commission staff if any legal action is filed against Provider related to work funded by this Agreement.

10. CONFIDENTIALITY.

A. Provider shall comply with, and will require its officers, employees, agents, sub-Providers and partners to comply with, all applicable Federal and State laws and regulations regarding the confidentiality of applications and records concerning an individual made or kept by the Provider and shall keep such matters confidential and not open to examination for any purpose not directly connected with the administration of this Agreement or the services required by this Agreement.

B. Provider shall inform all of its officers, employees, agents, sub-Providers and partners of the above provisions and that any person knowingly and intentionally violating the applicable confidentiality laws and regulations may be guilty of a crime.

11. INSPECTION & AUDIT.

A. Any other provision of this Agreement notwithstanding, at reasonable times during normal business hours, Commission or Executive Director, and/or their appropriate audit agency or designee, shall have the right to audit and inspect any books and records of Provider which pertain to services performed and determinations of amounts payable under this Agreement. Provider shall also furnish the Commission and Executive Director with such additional information as they may reasonably request to evaluate the services being rendered.

B. Provider shall maintain on a current basis, complete books and records relating to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. These documents and records shall be retained for at least three (3) years from termination of this Agreement. Provider shall permit Commission to audit all books, accounts, or records relating to this Agreement or all books, accounts, or records of any business entities controlled by Provider who participated in this Agreement in any way.

C. Any audit may be conducted on Provider's premises or, at Commission's option, Provider shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from Commission. Provider shall refund any moneys erroneously charged. If Commission requires an audit due to errors on the part of the Provider, Provider shall be liable for the costs of the audit in addition to any other penalty to be imposed.

12. **LAW, POLICY AND PROCEDURES, LICENSES, AND CERTIFICATES.** Provider agrees to administer this Agreement in accordance with all applicable Commission policies, as well as any local, county, state, and federal laws, rules, and regulations applicable to its operations and shall comply with all laws including, but not limited to, those relevant to wages and hours of employment, occupational safety, fire, safety, health, and sanitation standards and directives, guidelines, and manuals related to this Agreement. All issues shall be resolved using reasonable administrative practices and judgment. Provider shall keep in effect all licenses, permits, notices, and certificates required by law, and by this Agreement.

13. **NONDISCRIMINATION.**

A. During the performance of this Agreement, Provider shall not unlawfully discriminate, harass, or allow harassment against any recipient of services, employee, or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, sexual preference, or use of leave authorized by law. Provider shall ensure that its evaluation and treatment of recipients of services, employees, and applicants for employment are free of such discrimination and harassment. Provider shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f) set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Provider shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

B. Provider shall comply with the following: Provisions of Title VI of the Civil Rights Act of 1964 (42 USC § 2000), as amended by the Equal Opportunity Act of March 24, 1972 (P.L. 92-261), Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), and all requirements imposed by the applicable Health and Human Services regulations (45 CFR, Part 84); and the Americans with Disabilities Act.

C. **Statement of Compliance.** By signing this Agreement, Provider hereby certifies under penalty of perjury, as defined in California law, that Provider has, unless exempted, complied with the nondiscrimination requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

14. **RELIGIOUS ACTIVITIES.** Provider shall not, when conducting work funded by this Agreement: (A) Discriminate against anyone in employment or hiring based on religion; (B) Discriminate against any persons served based on religion; nor (C) Provide any religious instruction, worship, or counseling.

15. **SMOKE-FREE PREMISES.** Provider shall prohibit the use of tobacco, marijuana, and e-cigarette on its premises. "Premises" shall include all property owned, leased, or occupied by Provider, including its offices and day care centers, if applicable.

16. **POLITICAL ACTIVITIES PROHIBITED.** None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. No funds provided hereunder shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.

17. NOTICES. Notices shall be given to Commission at the following location:

FIRST FIVE YUBA
1114 Yuba Street, Suite 141
Marysville, CA 95901

Notices shall be given to Provider at the following addresses:

NAME OF PROVIDER
MAILING ADDRESS
CITY, STATE, ZIP CODE

18. INDEPENDENT PROVIDER. Both parties understand and agree that Provider is an independent contractor and that no relationship of employer-employee exists between the Commission and Provider. Neither Provider nor Provider's assigned personnel shall be entitled to any benefits payable to employees of the Commission.

19. PUBLIC RECORDS ACT. Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

20. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Yuba County. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

21. TERMINATION.

A. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than fifteen (15) days to cure the default. Such notice shall describe the default, and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within the fifteen-day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement.

B. This Agreement is subject to the Commission appropriating sufficient funds for the activities required of the Provider pursuant to this Agreement. If the Commission's adopted budget does not appropriate sufficient funds for this Agreement, the Commission may terminate this Agreement by giving thirty (30) days written notice to the Provider, in which event the Commission shall have no obligation to pay Provider any further funds or provide other consideration, and the Provider shall have no obligation to provide any further services under this Agreement.

C. This Agreement may be terminated for any reason by either party at any time during its term, by giving a thirty-day written notice to the other party.

22. INTEGRATION. This Agreement, including the language preceding the Agreement and the Agreement itself, represents the entire understanding of Provider and Commission as to

those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may be amended only by written instrument signed by the Commission and Provider.

[Remainder of page intentionally left blank.]

SAMPLE AGREEMENT

23. AUTHORITY. By signing below, the parties to this Agreement represent that they have the authority to enter into this Agreement and that they agree to abide by the terms and conditions specified above.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date written.

FIRST FIVE YUBA COUNTY CHILDREN & FAMILIES COMMISSION

Ericka Summers, Executive Director

Date

PROVIDER ENTITY'S LEGAL NAME

SIGNATURE OF PROVIDER

Date

EXHIBIT A

RESPONSE TO RFP/RFQ/RFA

SAMPLE AGREEMENT