



Children and Families Commission

054-105-P-R2010

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Direct Service Contract

Contract #1011-90063-36-211

“Children’s Health Initiative”

THIS AGREEMENT is made this 1st day of July, 2010, by and between First 5 El Dorado Children and Families Commission and

El Dorado County Health Services Department
Neda West, Director of Health Services
931 Spring St.
Placerville, CA 95667
(530) 621-6191
(530) 626-4713

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THIS AGREEMENT is made July 1, 2010, by and between First 5 El Dorado Children and Families Commission ("Commission") and Contractor/Agency ("Grantee").

Administrator: The County Officer or employee with responsibility for administering this Agreement is Kirsten Rogers, Supervising Health Education Coordinator, or successor.

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

RECITALS:

WHEREAS, Grantee has agreed to implement strategies that support the Goals and Objectives of the STRATEGIC PLAN of the Commission,

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by Commission, the parties agree to the following:

1. **SCOPE OF WORK:** Grantee agrees to provide all of the work described in the Scope of Work (Attachment I) attached hereto, and by this reference made a part hereof.
2. **REPORTING REQUIREMENT:** Grantee shall submit Monthly Budget/Invoice Reports (Attachment II) and Semi-Annual Scope of Work (Attachment III), Population Served (Attachment IV) and Progress Reports (Attachment V). Grantee shall also collect, record and report required data for program evaluation to the Commission per section 26 of this contract.

Monthly Invoice/Budgets Reports along with detailed records (timesheets, receipts, paid invoices, etc...) supporting all reported expenditures are due to the Commission by the second Friday of each month. Semi-Annual Reports are due to the Commission no later than the final Friday of the month following the end of each semi-annual period. Semi-annual periods end on the following dates of each year: December 31 and June 30. If the due date for submission of a report falls on a standard holiday, the report will be due on the following regularly scheduled workday.

Substandard performance as determined by Commission staff will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by Grantee within a reasonable period of time after notification by Commission staff (usually within 30 days), the Commission may initiate contract suspension or termination procedures. Program evaluation components may not be modified by Grantee without prior written approval from Commission staff.



Grantee shall use funds derived from this Contract as outlined in the Budget (Attachment II) submitted to and approved by the Commission.

3. **PAYMENT & BUDGET.** All professional, technical documents and information developed under this contract; writings, worksheets, reports and related data and materials shall become the property of the Commission. Basic data or information obtained by this contract is made available to the Commission without restriction or limitation of use, and no charges can be made for any of the foregoing. All payments of funds to the Grantee shall be made by and through the Office of the El Dorado County Auditor/Controller, upon approval by the Commission, in accordance with the following schedule: 10% of the contract total upon signing and approval of the contract, and monthly invoices to be paid according to the terms outlined below.
- A. Monthly Invoice/Budget Reports shall be submitted to the Commission along with detailed records (timesheets, receipts, paid invoices, etc...) supporting all reported expenditures. These reports will serve as invoices that will be payable upon review and approval by Commission staff.
 - B. The Commission shall forward payment request to the County Auditor/Controller within fifteen (15) business days of approving monthly Invoice/Budget Reports.
 - C. Grantee agrees to expend allocated Commission funds as outlined in the Contract Budget (Attachment III). Grantee is permitted a budget variation of up to fifteen percent (15%) for each budget line item for the contract period. Any larger budget variation must be submitted in writing using the Budget Revision Request Form (Attachment VI), and receive prior Commission approval. The Commission will not compensate Grantee for unauthorized services rendered by the Grantee, nor for claimed services which Commission contract monitoring shows have not been provided as authorized. If Commission has advanced funds for services later determined not to have been provided, Grantee shall refund requested amounts within five (5) days of demand by Commission. The Commission has the option of offsetting such amounts against future payments due to Grantee.
 - D. Indirect costs charged to this grant shall not exceed the approved indirect cost rate of the El Dorado County Superintendent established by the California Department of Education's School Fiscal Services Division. For fiscal year 2010-2011 this rate has been set at 9.0% (rounded to nearest tenth).
 - E. Monthly Invoice/Budget reports to the Commission shall be submitted per Attachment II along with detailed records supporting all reported expenditures. Copies of such records will be available to the Commission for review upon request at Grantee's place of business. Any Subcontractor paid by the Grantee as authorized by the Commission, shall be required by Grantee to maintain detailed records for all amounts paid and will be required to provide Commission access to those records if necessary.

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- F. At the discretion of the Commission, any unspent funds that remain at the end of the contract year shall be returned to First 5 El Dorado when the contract period has been completed.
- G. The Commission shall have sole discretion to determine if a Grantee is eligible to carry over unspent funds into the following fiscal year. The unspent funds carried over may be deducted from the following fiscal year contract at Commission discretion.
- H. The Commission shall have the right to reduce the amount of this grant to offset Commission expenditures incurred in support of activities related to this grant.
4. **CONTRACT PERFORMANCE TIME:** All work required by this Contract shall be completed no later than June 30, 2011. Grantee shall have until July 30, 2011 to complete and submit the final reports required by this contract.
5. **MAXIMUM COST TO COMMISSION:** Notwithstanding any other provision of this contract; in no event will the cost to the Commission for the work to be provided herein exceed the maximum sum of \$430,000.
6. **STATE REQUIREMENTS:** This Contract is funded by a First 5 Grant with monies from the California Children and Families Trust Fund (Health & Safety Code 130100-130155). Funding is guaranteed by the State of California First 5 sources. If the State of California's First 5 funds are no longer distributed, the contract shall be null and void within ninety (90) days of a written notice by certified mail to the contractor. The State of California, may, through First 5, enact requirements that affect the performance of the Grantee. If the State does impose new obligations affecting the performance of this Contract, Commission reserves the right to amend the Contract as necessary to comply with state requirements. Grantee will be notified at least thirty (30) days in advance if new requirements are to be imposed. No funds provided by the Commission shall be used for any political activity or political collaborations. All documents generated by this contract are subject to disclosure pursuant to the California Public Records Act.



7. **INSURANCE:** The Grantee shall maintain a commercial general liability insurance policy in the amount of one million dollars (\$1,000,000.00). Where the services to be provided under this Contract involve or require the use of any type of vehicle by the grantee in order to perform said services, the Grantee shall also provide comprehensive business or commercial automobile liability coverage including non owned and hired automobile liability in the amount of \$300,000.00.

Said policies shall remain in force throughout the life of this Contract, and shall be payable on a “per occurrence” basis unless the Commission specifically consents to a “claims made” basis. If the Commission does not consent to “claims made” coverage, the Grantee shall purchase “tail” coverage in the event that the Grantee changes insurance carriers during the term of this Contract or for one year thereafter. Proof of such “tail” coverage shall be required at any time during the term of this Contract that the Grantee changes to a new carrier prior to receipt of any payments due.

The Commission shall be named as an additional insured on the commercial general liability policy. The insurer shall supply certificates of insurance and endorsements signed by the insurer evidencing such insurance to the Commission prior to commencement of work, and said certificates and endorsements shall provide for a minimum ten (10) day advance notice by the Commission of any termination or reduction in coverage.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of the contract. In addition to any other available remedies, the Commission may suspend or recover payments to the Grantee for any work conducted during any time that insurance was not in effect and until such time as the Grantee provides adequate evidence that Grantee has obtained the required coverage.

“Public agencies” (County Departments, cities, school districts, etc.) are exempt from the requirements of this section.

8. **WORKER’S COMPENSATION:** The Grantee acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for worker’s compensation or to undertake self insurance in accordance with the provisions of that Code and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. (Statutory or \$1,000,000. Employers Liability-minimum \$100,000)
9. **NONDISCRIMINATORY EMPLOYMENT:** In connection with the execution of this Contract, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.



10. **SUBCONTRACTING:** The grantee shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the Commission except for any subcontract work identified herein.
11. **ASSIGNMENT:** The rights, responsibilities and duties under this Contract are personal to the Grantee and may not be transferred or assigned without the express prior written consent of the Commission.
12. **BOOKS OF RECORD AND AUDIT PROVISION:** Grantee shall maintain on a current basis, complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. These documents and records shall be retained for at least three years from the completion of this Contract. Grantee will permit Commission to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Grantee who participated in this Contract in any way.
13. **CONTRACT TERMINATION:** Time is of the essence with respect to this Contract. Grantee agrees to commence and to complete the work within the time schedules outlined within this Contract.
 - A. If the Grantee fails to provide in any manner the services required under this Contract, or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the Commission may terminate this Contract by giving five (5) calendar days written notice to the party involved.
 - B. Failure of the Grantee to secure or obtain funding from other sources, which are needed by the Grantee to completely carry out the programs provided in this Contract may be grounds for termination of this Contract, at the discretion of the Commission.
 - C. Either party may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
 - D. In the event of termination the Grantee shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Grantees shall refund any advanced funds, which were not used in accordance with this Contract.



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14. **RELATIONSHIP BETWEEN THE PARTIES:** It is expressly understood that in performance of the work under this Contract, the Grantee, and the agents and employees thereof, shall act as an independent contractor and not as officers, employees or agents of the Commission.
15. **TITLE TO PROPERTY:** Title to Property on any single item valued at \$1,000.00 or more shall remain with First 5 El Dorado for the first two years after purchase, thereafter Title to Property shall transfer to grantee unless otherwise agreed upon in writing.
16. **AMENDMENT:** This Contract may be amended or modified only by written agreement of all the parties. Grantee agrees to provide immediate written notice to the Commission if significant changes or events occur during the term of this contract which could potentially impact the progress or outcome of the grant including, but not limited to, changes in the Grantees management personnel, loss of funding, revocation or suspension of the Grant Recipient's tax-exempt status (if applicable) or license.
17. **AUTHORITY TO CONTRACT:** The undersigned person, if signing on behalf of an organization, warrants that he or she has the authority to enter into this Contract on behalf of the Grantee organization.
18. **JURISDICTION AND VENUE:** This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in El Dorado County, California.
19. **INDEMNIFICATION:** To the fullest extent allowed by law, Grantee shall defend, indemnify and hold Commission harmless against and from any and all claims, suits, losses, demands, and liability for damages including attorneys-fees and other costs of defense brought for or on account of injuries to or death of any person, or damage to any property, or any economic, consequential or special damages which are claimed or which shall in any way arise out of or be connected with services, operations or performance hereunder, caused by Grantee's negligence. This duty of Grantee to indemnify and save Commission harmless expressly includes the duties to defend set forth in California Civil Code section 2775. Commission shall give Grantee prompt written notice of any such demand, claim or suit against it, and Commission shall have the right to compromise or defend the same to the extent of his own interest.

To the fullest extent allowed by law, the Commission shall defend, indemnify, and hold the Grantee, and their officers, employee's agents, and representatives harmless against and from any and all claims, suites, losses, demands, and liability for damages, including attorney's fees and other costs of defense brought for or on account of damage to any property, or any economic, consequential or special damages which are claimed or which shall in any way arise out of or be connected with services, operations or performance hereunder, caused by Commission's

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negligence. This duty of Commission to indemnify and save Grantee harmless expressly includes the duties to defend set forth in California Civil Code section 2775. Grantee shall give Commission prompt written notice of any such demand, claim or suit against it, and Commission shall have the right to compromise or defend the same to the extent of his own interest.

20. **COMPLIANCE WITH APPLICABLE LAWS:** The Grantee shall comply with any and all state and local laws affecting the services covered by this Contract.
21. **RELIGIOUS ACTIVITIES:** If the Grantee is a religious organization, then Grantee shall not, when conducting work funded by this Contract:
- A. Discriminate against anyone in employment or hiring based on religion;
 - B. Discriminate against any persons served based on religion; and
 - C. Provide any religious instruction, worship or counseling.
22. **NOTICES:** Notices shall be given to Commission at the following location:
- First 5 El Dorado
Children and Families Commission
Steven M. Thaxton, Executive Director
2776 Ray Lawyer Drive
Placerville, CA 95667
- Notices shall be given to Grantee at the following address(es):
- El Dorado County Health Services Department
Neda West, Director of Health Services
931 Spring St.
Placerville, CA 95667
23. **TAX STATUS:** A Grantee which is a nonprofit organization shall possess a "Letter of Good Standing" from the Secretary of State's Office and covenants that it will keep such status in effect during the full term of this contract.
24. **ADVERTISEMENT:** The Grantee agrees to use the First 5 - El Dorado logo on all documents related to this contract.
25. **COLLABORATION:** Grantee agrees to participate in periodic trainings and meetings scheduled by the Commission. Based on the principles of First 5 El Dorado to maximize existing community resources serving children ages five and under and their families, Grantee agrees to integrate the promotion of Commission Initiatives into this grant.

26. **DATA COLLECTION:** Grantee agrees to collect data and report to the Commission for the purposes of program planning and evaluation. Grantee agrees to maintain a roster of children, parents/guardians, other family members and early care and education providers served through this grant for the purposes of reporting unduplicated counts. Data collection shall include, but is not limited to:
- A. Unduplicated count of the number children less than 3 years of age, and 3 through 5 years of age by ethnicity and primary language that receive services through this First 5 El Dorado grant (see Attachment IV).
 - B. Unduplicated count of the number of parents/guardians/other family members of children 0-5 years of age by ethnicity and primary language that receive services through this First 5 El Dorado grant (see Attachment IV).
 - C. Unduplicated count of the number of early care and education providers of children 0-5 years of age that receive services through this First 5 El Dorado grant (see Attachment IV).
 - D. First 5 El Dorado Parent Surveys (Attachment VII) to be conducted with each family that receives services through this First 5 El Dorado grant.

27. Confidentiality and Information Security Provisions:

- A. The Commission and Grantee ("Parties") shall both comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR45, parts 160-164, regarding the confidentiality and security of personal identifiable information (PII).

Personal identifiable information (PII) means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

- B. Permitted Uses and Disclosures of PII by the Commission and Grantee:

- (1) Permitted Uses and Disclosures. The Parties hereto shall each develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of its operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, the Parties may use or disclose PII to perform functions, activities or



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services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.

(2) Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, the Parties will:

(a) Use and disclose PII for the proper management and administration of the Scope of Work (Item 1) or to carry out the legal responsibilities of the Parties, provided that such use and disclosures are permitted by law.

(b) Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information which is no longer to be retained in the performance of this Agreement by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

C. Responsibilities of the Parties.

Safeguards. To prevent use or disclosure of PII other than as provided for by this Agreement. Each party shall provide the other with information concerning such safeguards as may be reasonably requested from time to time.

The Parties shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only.

The Parties shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), strong password controls shall be implemented on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.

The Parties shall:

Implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:

- (a) Network based firewall and/or personal firewall
- (b) Continuously updated anti-virus software
- (c) Patch-management process including installation of all operating system/software vendor security patches.



D. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known of a use or disclosure of PII by each Party or its subcontractors in violation of the requirements of this Agreement.

E. Agents and Subcontractors of the Consultant. To ensure that any agent, including a subcontractor that receives PII for the purposes of this contract shall comply with the same restrictions and conditions that apply through this Agreement to both Parties with respect to such information.

F. Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, either Party shall notify the other immediately upon discovery of any breach of PII and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the County Privacy Officer, within two business days of discovery, at (530) 621-5572, or to First 5 El Dorado Children and Families Commission at (530) 622-5787, as appropriate. Prompt corrective action shall be taken to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. The Party in breach shall investigate such breach and provide a written report of the investigation to the County Privacy Officer and/or First 5 as appropriate, postmarked within thirty (30) working days of the discovery of the breach.



Children and Families Commission

P&C No. 058-S1111
Contract #1011-90063-36-211

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IN WITNESS WHEREOF, The parties have executed this Contract on the date written

APPROVED BY:
CHILDREN AND FAMILIES COMMISSION OF EL DORADO COUNTY

Commissioner

Date

Commissioner

Date

Executive Director

Date

GRANTEE:

COUNTY OF EL DORADO

By: _____
Norma Santiago, Chair
El Dorado County Board of Supervisors

Date: _____

ATTEST:
Suzanne Allen de Sanchez, Clerk

By: _____ Date: _____