

**CHILDREN
AND FAMILIES
COMMISSION
FOR
SAN BERNARDINO COUNTY
STANDARD CONTRACT**

<i>FOR COMMISSION USE ONLY</i>									
<input checked="" type="checkbox"/> New	Vendor Code			SC	Dept. 903	A	Contract Number EN003		
<input type="checkbox"/> Change									
<input type="checkbox"/> Cancel									
Organization Children and Families Commission				Dept. 903	Orgn. 903	Contractor's License No.			
Commission Representative Cindy Faulkner, Operations Manager				Telephone 909-386-7706		Total Contract Amount \$25,000			
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:									
If not encumbered or revenue contract type, provide reason: _____									
Commodity Code 95200		Contract Start Date January 1, 2010		Contract End Date June 30, 2010		Original Amount \$25,000	Amendment Amount		
Fund RRC	Dept. 903	Organization 903	Appr. 300	Obj/Rev Source 3357	GRC/PROJ/JOB No. EMERNEED	Amount \$25,000			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
Abbreviated Use Basic Needs				Estimated Payment Total by Fiscal Year					
				FY	Amount	I/D	FY	Amount	I/D
				09-10	\$25,000				

THIS CONTRACT is entered into in the State of California by and between the Children and Families Commission for San Bernardino County, hereinafter called the Commission, and

Legal Name
The Salvation Army

Department/Division

Address
746 W. 5th Street

San Bernardino, CA 92410

Phone
(909)888-1336

hereinafter called the Contractor.

Project Name
Basic Needs

Address
746 W. 5th Street

San Bernardino, CA 92410

Federal ID No.

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the Commission has been authorized by the State of California under Section 130100 -130155 of the Health and Safety Code and Section 30131.2 of the Revenue and Taxation Code, in accordance with the Children and Families Act of 1998, to promote, support and improve the early development of children prenatal through age five, and

WHEREAS, the Commission has been authorized by these cited references and by County of San Bernardino Code under Sections 12.291 – 12.297 to contract with organizations for services to children prenatal through age five and their families in San Bernardino County, and

WHEREAS, the Commission desires that such services be provided by Contractor and Contractor agrees to provide the services as set forth in this contract,

NOW THEREFORE, in accordance with the conditions stated herein, the Commission and Contractor mutually agree to the following terms and conditions:

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I. GLOSSARY

Direct Costs: Costs that can be identified specifically with a particular final cost objective, such as a particular project, service, or other direct activity of an organization.

Full Time Equivalent (FTE): A measurement equal to one staff person employed in a full-time work schedule and which is, for purposes relating to this contract, calculated at 2,080 hours in a year. FTEs provide a common unit of measurement for positions budgeted. The number of FTEs is the cumulative value expressed, using the full-time equivalent measurement as a baseline, as a total percentage of time or as a total percentage of funds related to a particular classification.

Indirect Costs: Costs that have been incurred for the benefit of multiple projects or activities and cannot be readily identified with a particular final cost objective. An organization having several major functions may need to accumulate the indirect costs into separate groupings and then allocate proportionally to the benefiting functions by means of a base which best measures the relative degree of benefit. The indirect cost rate would be used to distribute the proportional amount of indirect costs to the individual projects or activities.

Milestone: A critical point that participants must reach to ensure that a project is on track to achieve its performance target.

Outcome: The result, which the Commission seeks and to which all performance targets must contribute. Examples include: a community in which no baby has a low birth weight for any preventable reason, etc. Outcomes are specific states or conditions that can be understood to be caused or at least influenced by the achievement of performance targets.

Parenting Education: Education for parenting/pregnant participants that is of high quality is evidence-based and accessible. Parenting Education includes topics such as child development, parenting skills, and bonding/attachment.

Participant: A person who directly interacts with a Contractor's product and service delivery staff. This interaction is intended to result in a change in participant behavior or condition in line with outcomes and mission. First 5 San Bernardino's primary participant, in accordance with the target population, is children, prenatal through age five.

Participant Support/Incentives: Budget line item category for items purchased to remove barriers or to provide motivation to participants to follow through with the program.

Participant Transportation: Budget line item category for costs involved with transporting participants to needed services and/or appointments.

Performance Target: The specific result that a Contractor seeking investment will commit to achieve. It is tangible in the sense that it can be verified and narrow enough to be directly achieved by the Contractor. It almost always represents a change in behavior for the participant of a program.

Product: A program or service with specific core features that is offered to a participant. In Scope of Work Planning, a product is described in terms of benefit or value to a participant.

Professional Services/Consultants: Independent contractors hired to perform services not related to providing direct services. Examples include janitorial services, bookkeeping services, speakers, etc.

Program Materials/Supplies: Budget line item category for items directly related to service delivery such as course curriculum, children's books, journals used by participants, child development toys, etc.

Scope of Work: A plan that includes the Performance Targets and Outcomes of a program and serves as a way to manage the program to results.

Resource Center: A facility (fixed or mobile) to which children, prenatal through age five, and families access services needed. Two basic program elements must be present at a Resource Center for it to meet the minimal definition: (i) referrals and linkages to critical services and programs, not represented physically at the center, and (ii) case management with a level of intervention appropriate to the family/child's risk, for an appropriate period of time, and including at least some element of long-term follow-up.

Staff Development/Training: Budget line item category for expenses associated with staff training, conferences, retreats, classes, and any other staff development activities.

Staff Mileage/Travel: Budget line item category for employee mileage and travel costs for travel related to the program, based on the current IRS allowable rate.

Subcontractor: Agencies contracted by the Contractor to provide direct services for which they will be responsible for achieving the performance targets for the portion of services they are providing. Contractor shall be responsible for the performance of any subcontractor.

Verification: Establishes that something represented to happen does in fact take place. It is kept as simple as possible and focuses on milestone and performance target accomplishments. The verification tools must be pre-approved by the Commission.

II. TERM

A. This contract is effective commencing January 1, 2010 and expires June 30, 2010, but may be terminated earlier in accordance with provisions of paragraph below or Article X of this Contract.

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B. Notwithstanding Article X, this Contract may be terminated by either party by serving a written notice thirty days in advance of termination. The Executive Director for the Commission has the authority and discretion to exercise this right on behalf of the Commission.

III. CONTRACTOR'S SERVICE RESPONSIBILITIES

A. Contractor shall provide all program services identified in the contract and Attachment A – Scope of Work 2009-2010.

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B. Contractor shall provide services in a manner consistent with the Principles on Equity as adopted by the Commission.

C. Contractor shall coordinate with appropriate agencies whenever possible to enhance service provision and to maximize usage of California Children and Families Trust Fund monies available.

D. Contractor shall deliver performance targets as specified in the contract and provide evidence of achievement as identified in the verification. The verification tools must be pre-approved by the Commission. When specified by the Commission, verification tools must be developed in collaboration with staff or agencies as designated by Commission.

E. Contractor shall cooperate with any consultant, technical advisor, or committee as designated by the Commission to support the evaluation system development and implementation process.

F. Contractor shall submit to the Commission by July 31, 2010 an Outcomes Report that reflects progress and completion of the project as specified within the Scope of Work (Attachment A) and fiscal expenditure justification based on the Program Budget (Attachment B).

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G. Contractor shall provide services at the following location:

The Salvation Army/San Bernardino
746 W. 5th Street
San Bernardino, CA 92410

IV. CONTRACTOR'S GENERAL RESPONSIBILITIES

A. Participants

Contractor understands and acknowledges that the services under this contract are for the purposes of promoting, supporting and improving the early development of children prenatal through age five. As such, services provided under this contract shall offer a direct benefit to this population. Any service provided beyond this limitation, unless as agreed upon in this contract, is a breach of contract and an unauthorized expenditure of Children and Families First Act funds. Services to siblings and family

members who are not parents or primary caregivers may only be incidental to services provided to children prenatal through age five.

B. Contractor Capacity

In the performance of the contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the Commission.

C. Governing Board

Upon request, Contractor shall provide the Commission with a listing identifying the members of the Board of Directors or other governing party, written schedule of all Board of Directors or other governing party meetings and provide the Commission with copies of the Board of Directors' minutes when discussions or actions taken during these meetings may impact on the contract. Further, the Commission representative shall have the option of attending Board meetings during the term of this contract.

D. Contractor Primary Contact

The Contractor will designate one individual to serve as the primary contact and one to serve as the alternate contact, if primary contact is unavailable, on behalf of the Contractor and will notify the Commission of these designees within 15 days after contract approval. The primary contact shall have the authority to identify, on behalf of the Contractor, other parties able to give or receive information on behalf of this contract.

Contractor shall notify the Commission when the primary contact will be unavailable or out of the office for two weeks or more or if there is any change in either the primary or alternate contact.

E. Responsiveness

Contractor or a designee must respond to Commission inquiries within five business days.

F. Notification

In the event of a problem or potential problem that will severely impact the quality or quantity of service delivery, or the level of performance under this contract, Contractor will notify the Commission within one working day, in writing and by telephone.

G. Change of Address

Contractor shall notify the Commission in writing of any change in mailing address. Notification shall occur in advance of the address change. At a minimum, notification must occur within five days of the address change. Change of address shall not interrupt service delivery to zip codes identified in Attachment A.

H. Meeting Attendance

Contractor will be required to attend meetings, workshops and training sessions around issues related to Contractor's particular region or directly related to the type of services being provided by Contractor as determined by the Commission. Notifications of such meetings will be provided to Contractor within 10 business days.

I. Contract Assignability

Without the prior written consent of the Commission, the contract is not assignable by Contractor either in whole or in part.

J. Subcontracting

Contractor agrees not to enter into any subcontracting agreements for work contemplated under the contract without first obtaining written approval from the Commission. Any subcontractor shall be subject to the same provisions as the Contractor. Contractor shall be ultimately responsible for the performance of any subcontractor.

K. Contract Amendments

Proposer agrees any alternations, variations, modifications, or waivers of provisions of the Contract shall be valid only when they have been reduced to writing, duly signed and attached to the original of the Contract and approved by the required persons and organizations.

L. Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, subcontractors, independent contractors, consultants, professional service representatives, volunteers and the Commission. Contractor shall make a reasonable effort to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family, business, or other ties. In addition, Contractor's employees shall not simultaneously receive payment for work done as an independent contractor without obtaining prior approval from the Executive Director or designee.

Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State of law, including Section 23-602 (Code of Conduct) of Chapter 23-600 of the California Department of Social Services (CDSS) Manual of Policies and Procedures. In the event that the Commission determines that a conflict of interest situation exists, the Commission may disallow any increase in costs associated with the conflict of interest situation and such conflicts may constitute grounds for termination of this contract.

This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

M. Ownership Rights

The Commission shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material.

N. Attribution

Contractor shall properly acknowledge the Commission per the requirements stated in the First 5 San Bernardino Attribution Standards.

O. Confidentiality

Contractor shall require its officers, agents, employees, volunteers and any subcontractor to sign a statement of understanding and comply with the provisions of federal, state and local statutes to assure that:

- All applications and records concerning any individual made or kept by any public officer or agency or contractor in connection with the administration of any services for which funds are received by the Contractor under this contract, will be confidential and will not be open to examination for any purpose not directly connected with the administration, performance, compliance, monitoring or auditing of such services;
- No person will publish, disclose, or permit to be published or disclosed or used, any confidential information pertaining to any applicant or participant of services under this contract;
- Contractor agrees to inform all subcontractors, consultants, employees, agents, and partners of the above provisions; and,
- Contractor shall comply with all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

P. Licenses and Permits

Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all necessary licenses and permits required by the laws of the United States, State of California, San Bernardino County and all other appropriate governmental agencies, and agrees to pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this Contract. Contractor will notify the Commission immediately of loss or suspension of any such licenses and permits. Failure to comply with the provisions of this section may result in immediate termination of this Contract.

Q. Health and Safety

Contractor shall comply with all applicable local, state and federal health and safety codes and regulations, including fire clearances, for each site where program services are provided under the terms of the Contract.

R. Americans with Disabilities Act

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (ADA).

S. Child Abuse Reporting

Contractor shall ensure that all known or suspected instances of child abuse or neglect are reported to the appropriate law enforcement agency and/or to the appropriate Child Protective Services agency. This responsibility shall include:

- Assurance that all employees, agents, consultants or volunteers who perform services under this Contract and are mandated by Penal Code Sections 11164 et seq. to report child abuse or neglect, sign a statement, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them;
- Development and implementation of procedures for employees, agents, consultants, or volunteers who are not subject to the mandatory reporting laws for child abuse to report any observed or suspected incidents of child abuse to a mandated reporting party, within the program, who will ensure that the incident is reported to the appropriate agency;
- Provision of or arrangement of training in child abuse reporting laws (Penal Code, Sections 11164 et seq.) for all employees, agents, consultants, and volunteers, or verification that such persons have received training in the law within thirty (30) days of employment/volunteer activity.

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T Department of Justice Clearance

Contractor shall obtain from the Department of Justice, records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment, or volunteers, for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3. This includes licensed personnel who are not able to provide documentation of prior Department of Justice clearance. A copy of a license from the State of California is sufficient proof.

Contractor must have on file for review upon request a signed statement verifying Department of Justice clearance for all appropriate individuals.

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U. The Excluded Parties List System (EPLS)

Neither Proposer nor its employees or subcontractors shall be named on the EPLS, which includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits. The EPLS can be accessed at <http://www.epls.gov/>. This information may include names, addresses, DUNS numbers, Social Security Numbers (SSNs), Employer Identification Numbers or other Taxpayer Identification

Numbers, if available and deemed appropriate and permissible to publish by the agency taking the action. Please be aware that although United States General Service Administration operates this system, individual agencies are responsible for the timely reporting, maintenance, and accuracy of their data.

V. Conditions of Employment

Contractor shall notify the Commission of any staff member, paid, intern or volunteer, who is knowingly or negligently employed who has been convicted of any crime of violence, any sexual crime, or any other crime that would significantly impact this program. Contractor shall investigate all incidents where an individual whose is an applicant, employee, intern or volunteer of Contractor has been arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall use best efforts to notify Commission. In addition, the Commission may require the contractor to take action to remove that individual from participating in the program where the investigation by Contractor shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.

Contractor shall immediately notify the Commission concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, on this contract when such information becomes known to Contractor.

W. Grievance Policy

Ensure that each Contractor of services provided under the terms and conditions of this contract has read a copy of The Children and Families Commission's Grievance Procedure. Grievance Procedure must be posted prominently in English and Spanish at service sites for participants to review.

X. Incongruous Activities

Contractor agrees it will not perform or permit any political promotion or religious proselytizing activities in connection with the performance of this contract. Contractor will ensure no staff will conduct activity intended to influence legislation, administrative rule making or the election of candidates for public office during the time compensated under this contract or under representation such activity is being performed under this contract.

Y. 2-1-1 Registration

Contractor shall register with 2-1-1 San Bernardino County Inland Empire United Way within 30 days of contract effective date and follow necessary procedures to be included in the 2-1-1 database. The contractor shall notify the 2-1-1 San Bernardino County Inland Empire United Way of any changes in program services, location or contact information within ten (10) days of any change. Services performed as a result of being included in the 2-1-1 database, are separate and apart from the services being performed under this Contract and payment for such services will not be the responsibility of the Commission.

Z. Attorney Fees & Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Article VI. Indemnification and Insurance Requirements, Paragraph A, Number 1.

AA. Venue

The venue of any action or claim brought by any party to the Contract will be the Central District Court of San Bernardino County. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning the Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District Court of San Bernardino County.

BB. Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the contract is terminated or held to be

invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

CC. Reports

Contractor, in a timely and accurate manner, shall submit reports on designated key aspects of the project as required by the Commission. Instructions, format and required information for the content will be provided by the Commission and available on the website: www.first5sanbernardino.org.

Report requirements include, but are not limited to and subject to change, the following:

- Program Reports

Contractor shall submit to the Commission by August 15, 2010 an Outcomes Report that reflects progress and completion of the project as specified within the Scope of Work (Attachment A) and fiscal expenditure justification based on the Program Budget (Attachment B).

- Fiscal Reports

For each calendar month, Contractor shall provide the Commission with a Monthly Financial Report within 15 calendar days from the end of the reporting period.

Contractor shall submit any and all Final/Revised Fiscal Reports by August 15, 2010 for the previous fiscal year period or part thereof during the contract term. All reports submitted by August 15, 2010 will be considered final and no additional reports will be accepted after this date.

Contractor will fulfill evaluation and other reporting requirements as mandated by the Commission and the California Children and Families Commission.

Contractor agrees that failure to submit reports as specified will be sufficient cause for the Commission to withhold any payment due until reporting requirements have been fulfilled.

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V. CONTRACT COMPLIANCE/EQUAL OPPORTUNITY

Contractor agrees to comply with the provisions of all applicable Federal, State, and County laws, regulations and policies relating to equal employment or social services to Contractors, including laws and regulations hereafter enacted. Contractor shall not unlawfully discriminate against any employee, applicant for employment, or service Contractor on the basis of race, national origin or ancestry, religion, sex, marital status, age, political affiliation, sexual orientation, or disability. Information on the above rules and regulations may be obtained from the Commission.

VI. INDEMNIFICATION AND INSURANCE REQUIREMENTS

A. Contractor agrees to and shall comply with the following indemnification and insurance requirements:

1. Indemnification – The Contractor agrees to indemnify, defend (with counsel reasonably approved by the Commission) and hold harmless the Commission and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Commission on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the Commission's "active" as well as "passive" negligence but does not apply to the Commission's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the Commission and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The

additional insured endorsements shall not limit the scope of coverage for the Commission to vicarious liability but shall allow coverage for the Commission to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

3. Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the Commission, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the Commission.
4. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the Commission.
5. Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the Commission or between the Commission and any other insured or additional insured under the policy.
6. Proof of Coverage – The Contractor shall furnish Certificates of Insurance to the Commission Department administering the contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
8. Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
9. Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the Commission has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the Commission will be promptly reimbursed by the Contractor or Commission payments to the Contractor will be reduced to pay for Commission purchased insurance.
10. Insurance Review – Insurance requirements are subject to periodic review by the Commission. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the Commission. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the Commission, inflation, or any other item reasonably related to the Commission's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the Commission to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the Commission.

11. The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- a. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the Commission that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the Commission's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- 1) Premises operations and mobile equipment.
- 2) Products and completed operations.
- 3) Broad form property damage (including completed operations).
- 4) Explosion, collapse and underground hazards.
- 5) Personal injury
- 6) Contractual liability.
- 7) \$2,000,000 general aggregate limit.

- c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
- e. Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

VII. COMMISSION RESPONSIBILITIES

- A. Commission shall verify performance results of Contractor according to the Scope of Work and other data collection information requested by the Commission in meeting terms of the contract and the quality and effectiveness of services provided, based on criteria agreed upon, as delineated in this contract.
- B. Commission shall compensate Contractor for approved expenses in accordance with Section VIII of this contract.
- C. Commission shall specify all reports and deliverables required from the Contractor.
- D. Commission shall provide technical assistance as deemed necessary.
- E. The Commission will designate one individual to serve as the primary contact for the contract and will notify the Contractor of this designee within 15 days of the contract approval.

VIII. FISCAL PROVISIONS

A. Contract Amount

The contract amount shall not exceed \$25,000 for fiscal year 2009-2010 subject to the availability of California Children and Families Trust Fund monies.

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B. Allowable Costs

Funds provided pursuant to this contract shall be expended by Contractor in accordance with the Attachment B – Program Budget.

Such specified expenditures will be further limited to those that are considered both reasonable and necessary as determined by the Commission. Contractor agrees Commission may recover any payments for services or goods, including rental of facilities, which were not reasonable and necessary or which exceeded the fair market value. The recovery shall be limited to payments over and above reasonable or fair market amounts and any costs of recovery.

The reasonable and allowable reimbursement rate for use of motor vehicles is current IRS allowable rate.

Costs must be incurred only during the contract term, except when specifically approved by the Commission. Contractor shall not use current year funds to pay prior or future year obligations. Contractor will not be reimbursed for expenditures incurred after the expiration or termination of this contract.

Contractor shall obtain Commission approval for all out of State travel as it relates to services provided under this contract. Request must be submitted in writing 30 days in advance of travel date and travel must be approved in advanced by the Program Manager.

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C. Budget Line Item Changes

A Budget Revision Request may be submitted by the Contractor to the Commission to modify a line or lines of the approved budget. The request must indicate the proposed line item changes, the budget as amended applying the requested changes and a written justification for each requested change. The request cannot result in any alteration or degradation to the program services and performance target as specified in this contract.

The Executive Director, on behalf of the Commission, has the authority to approve (or deny) the request, provided that the modification does not deviate from the original intent of the contract or increase the total contract amount. Contractor is limited to two Budget Revision Requests per fiscal year.

The Contractor must submit any requests to the Commission no later than March 31st of the fiscal year. Requests must be submitted in hard copy form with original signatures. Postmarked envelopes received after March 31st will not be accepted in lieu of receipt.

D. Budget Line Item Variance

Variations in excess of 10% of a line item cannot be made by the Contractor without prior approval of the Commission. Variance shall not result in a change to the total contract amount or an increase to the administrative cost allocation of the approved budget. Contractor shall provide written justification for any budget line item variances of more than 10% made during a fiscal quarter in the following Quarterly Expenditure Report/Request for Funds.

E. Procurement

Contractor shall procure services or goods required under this contract on a competitive basis (3 bid process), unless otherwise provided by law, and make selections based on obtaining the best value possible. When a non-competitive procurement is used, a written justification must be maintained and be made available upon request.

F. Fixed Assets

The purchase of any equipment, materials, supplies or property of any kind, including items such as publications, copyrights, which have a single unit cost of \$5000 or more, including tax, and was not included in Contractor's approved budget, shall require the prior written approval of the Executive Director, on behalf of the Commission. Any such purchase shall directly relate to Contractor's services or activities under the terms of the contract.

Any item with a single unit cost of \$1000 or more, including tax, purchased with funds received under the terms of this contract and not fully consumed during the contract term shall revert to be the property of the Commission, unless otherwise specified by the Commission. The disposition of such equipment or property must be approved by the Executive Director upon contract termination.

G. Payor of Last Resort

Contractor shall attain funding through other sources than the Commission to provide services or support to participants whenever possible.

In cases where a participant is qualified for benefits from another source (such as MediCal, Healthy Families, federal or state funded programs, personal insurance, etc.), costs relating to services provided to that participant should be paid for by the primary payor first. Only the costs not covered will be allowable under this contract. Written verification shall be provided upon request.

H. Supplanting of Funds

In accordance with the Commission's Supplantation Policy, Contractor shall not supplant any Federal, State or County funds intended for the purposes of this contract with any funds made available under this contract. Contractor shall not claim reimbursement from Commission for, or apply sums received from Commission with respect to that portion of its obligations, which have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining State funds under any State program or County funds under any County programs without prior written approval of the Commission.

I. Payment Provisions

The Commission will disburse funds on a fee for service/reimbursement payment process and based on the contract budget amount and monthly report submissions.

Funds may be advanced for the first month, if requested, for an amount up to, but not exceeding 25% of the contract budget. All subsequent payments will be reimbursed monthly and amounts will be determined by actual expenditures reflected on the monthly invoices, projected costs and cash on hand collectively.

If an advance is requested and approved, 20% of the advanced amount will be withheld from the monthly reimbursements to recover the advanced funds over a five (5) month period.

The Commission reserves the right to reduce or withhold any payments from the Contractor for failure to submit reports in a timely and accurate manner or the Contractor is not in compliance with the Contract. Final payment under this contract may be withheld until all requirements, including reports, for contract closure have been fulfilled by Contractor.

J. EFT Payments

Contractor shall accept all payments from the Commission via electronic funds transfers (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by the Commission required to process EFT payments.

K. Fiscal Recordkeeping

Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles (GAAP) and must account for all funds, tangible assets, revenue and expenditures.

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IX. RIGHT TO MONITOR AND AUDIT

A. Audit Provisions

On an annual basis, Contractor is required to hire an independent licensed Certified Public Accountant (CPA), who shall prepare and file with the Commission, an Independent Auditor's Report for the term of the Contract.

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B. Right to Monitor and Audit

The Commission or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to monitor and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to observe the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation during any auditing or monitoring conducted.

Contractor shall cooperate with Commission in the implementation and evaluation of this Contract and comply with any and all reporting requirements established by Commission.

C. Availability of Records

All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by the Commission, and State representatives for a period of five years after final payment under the Contract or until all pending Commission and State audits are completed, whichever is later. Records, should include, but are not limited to participant files, monthly summary sheets, sign-in sheets, and other primary source documents. Contractor will have available for Commission review, all relevant financial records for the fiscal year being audited including documentation to verify shared costs or costs allocated to various funding sources as well as the basis for which the shared cost was allocated.

Program data shall be retained locally in San Bernardino County and made available upon request or turned over to Commission. If said records are not made available at the scheduled monitoring visit, Contractor may, at Commission's option, be required to reimburse Commission for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and be deducted from the Quarter Advance.

D. Assistance by Contractor

Contractor shall provide reasonable facilities and assistance for the safety and convenience of Commission's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.

E. Recovery of Investigation and Audit Costs

Contractor shall reimburse the Commission for all direct and indirect expenditures incurred in conducting an audit/investigation when Contractor is found in violation of the terms of the contract. Reimbursement for such costs will be withheld from any amounts due to Contractor.

When additional information (receipts, paperwork, etc.) is requested of the Contractor as a result of any audit or monitoring, Contractor must provide all information requested by the deadline specified by the Commission. A failure to provide the information by the specified deadline, will subject the Contractor to the provisions of Section X (Correction of Performance Deficiencies and Termination).

X. CORRECTION OF PERFORMANCE DEFICIENCIES AND TERMINATION

A. Failure by Contractor to comply with any of the provisions, covenants, requirements, or conditions of this contract shall be a material breach of this contract. In such event the Commission, in addition to any other remedies available at law, in equity, or otherwise specified in this contract, may:

- Afford Contractor a time period within which to cure the breach, which period shall be established at the sole discretion of the Executive Director; and
- Request Contractor provide and implement an action plan to correct breach within a reasonable timeframe; and/or
- Discontinue reimbursement to the contractor for and during the period in which the Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or;
- Withhold funds pending duration of the breach; and/or
- Offset against any monies billed by the Contractor but yet unpaid by the Commission those monies disallowed pursuant to Item 2 of this paragraph; and/or
- Immediately terminate this contract with just cause and be relieved of the payment of any consideration to the Contractor should the Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the Commission may proceed with the work in any manner deemed proper by the Commission. The cost to the Commission shall be deducted from any sum due to the contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

B. The Executive Director, on behalf of the Commission, shall give Contractor notice of any action pursuant to this paragraph, which notice shall be effective when given.

- C. The Executive Director is authorized to exercise Commission's rights with respect to initiating any remedies or termination of this contract in his/her sole discretion and to give notice as set forth below in this Contract.

XI. GENERAL PROVISIONS

A. Notices

When notices are required to be given pursuant to this contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: The Salvation Army/San Bernardino
746 W. 5th Street
San Bernardino, CA 92410

Commission: First 5 San Bernardino
330 North D Street, 5th Floor
San Bernardino, CA 92415-0442

- B. Commission shall have Power of Attorney to pay delinquent debts and unpaid wages from accounts payable to Contractor in the event debts and wages have not been paid on a current basis.
- C. Nothing contained in this contract shall be construed as creating a joint venture, partnership or employment arrangement between the parties hereto, nor shall either party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the party hereto.
- D. No waiver of any of the provisions of the contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the parties in an amendment to this contract.
- E. Any alterations, variations, modifications, or waivers of provisions of the contract, unless specifically allowed in the contract, shall be valid only when they have been reduced to writing, duly signed and approved by the authorized representatives of both parties as an amendment to this contract. No oral understanding or contract not incorporated herein shall be binding on any of the parties hereto. No course of dealing and no delay or failure of a party in exercising any right under any contract shall affect any other or future exercise of that right or any exercise of any other right. A party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
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- F. If any provision of the contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable, giving effect to the intention of the parties, and the remaining provisions of the contract shall not be affected.
- G. This contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The parties agree to the exclusive jurisdiction of the federal and state courts located in the County of San Bernardino, for any and all disputes arising under this contract, to the exclusion of all other federal and state courts.
- H. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits against Commission concerning this contract shall be Contractor's sole expense and shall not be charged as a cost under this contract. In the event of any contract dispute hereunder, each party to this contract shall bear its own attorneys' fees and costs regardless of who prevails in the outcome of the dispute.

continued on next page

XII. CONCLUSION

- A. This contract, consisting of 17 pages and Attachments A - B, inclusive, is the full and complete document describing services to be rendered by Contractor to Commission, including all covenants, conditions, and benefits. Attachments A - B are attached hereto and incorporated herein as though set forth in full.
- B. The signatures of the parties affixed to this contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

**CHILDREN & FAMILIES COMMISSION FOR
SAN BERNARDINO COUNTY**

Legal Entity

▶ _____
Authorized Signature

Josie Gonzales
Printed Name

Commission Chair
Title

Dated

▶ _____
Authorized Signature

Printed Name

Title

Dated

Reviewed for Processing	Approved as to Legal Form	Presented to Commission for Signature
▶ _____ Cindy Faulkner Operations Manager	▶ _____ Regina Coleman Commission Counsel	▶ _____ Karen E. Scott Executive Director
_____ Date	_____ Date	_____ Date