



Supplemental Transmittal
Agenda Item No. 6
November 4, 2009 Meeting

DATE: October 30, 2009

TO: Clerk of the Commission

FROM: Michael M. Ruane, Executive Director

SUBJECT: Modified Standard Agreement for Contract FCI-POM-02 with Mosaic Network, Inc.

Enclosed is a copy of the modified standard agreement prepared by Special Counsel. The revisions to the standard version agreement are summarized in Attachment 3 of the staff report.

No changes to the Recommended Actions are required for this item as a result of this transmittal. Due to the length of the document (57 pages), we are providing it electronically.

Thanks.

cc: Commission Members
Commission Counsel

AGREEMENT _____

BY AND BETWEEN

CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY

AND

MOSAIC NETWORK, INC.

FOR THE PROVISION OF SERVICES

AGREEMENT _____
BY AND BETWEEN
CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY
AND
MOSAIC NETWORK, INC.,
A [CALIFORNIA] CORPORATION
FOR THE PROVISION OF SERVICES

This **AGREEMENT** (“Agreement”) entered into as of the 15th day of November, 2009 (“Date of Agreement”), which date is enumerated for purposes of reference only and corresponds to the date of action on and approval of funding for this Agreement by COMMISSION, is by and between the **CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY**, a public body and legal public entity (“COMMISSION”) and **MOSAIC NETWORK, INC.**, a _____ corporation (“CONTRACTOR”). This Agreement shall be administered by the Executive Director of COMMISSION or his/her authorized designee (“ADMINISTRATOR”).

RECITALS

A. In order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature adopted legislation set forth in the California Children and Families Act of 1998, Health and Safety Code Section 130100, et seq. (as amended, the “Act”) implementing the Children and Families First Initiative passed by the California electorate in November, 1998 and establishing the California Children and Families Commission and providing for establishment in each county of Children and Families Commissions, including COMMISSION.

B. COMMISSION adopted its Strategic Plan to define how funds authorized under the Act should best be used to meet the critical needs of Orange County’s children prenatal through age five as codified in the Act, which plan has been amended and after the Date of Agreement may be further amended, updated, and/or revised (“Strategic Plan”).

C. CONTRACTOR is a _____ corporation.

D. COMMISSION desires to contract with CONTRACTOR to provide services and carry out certain performance obligations, and achieve certain outcomes, promoting the purposes of the Act and the Strategic Plan on the terms and conditions set forth in this Agreement and the Project Summary, Exhibit A, Work Plan, Exhibit A-1, Project Budget, Exhibit B and Software License Agreement, Exhibit C (together, “Services”).

E. CONTRACTOR desires to provide the services in furtherance of the purposes of the Act and the Strategic Plan on the terms and conditions set forth in this Agreement.

NOW, based on the Recitals, which are a substantive part of this Agreement, and agreed mutual consideration, COMMISSION and CONTRACTOR agree as follows:

1. TERM OF AGREEMENT. The term of this Agreement shall commence on [November 15, 2009] and terminate on [November 14, 2014], unless earlier terminated pursuant to the provisions of Paragraph 23 of this Agreement, or extended pursuant to this Paragraph. CONTRACTOR and

ADMINISTRATOR may mutually agree in writing to extend the term of this Agreement, provided that COMMISSION's Maximum Payment Obligation in this Agreement does not increase as a result. CLIENT in its sole discretion may extend this Contract for up to two, two-year additional terms [at the contracted price set forth in Exhibit _____ for year five, adjusted in an amount equal to _____% per annum] [and subject to such additional changes in the scope of services and compensation as may be mutually agreed in writing upon by CLIENT and CONTRACTOR, if any.]

2. ALTERATION OF TERMS. This Agreement, together with the Project Summary, Exhibit A, Work Plan, Exhibit A-1, Project Budget, Exhibit B and Software License Agreement, Exhibit C that are attached to this Agreement and fully incorporated by this reference (together, "Exhibits"), express all understanding of the parties with respect to the subject matter of this Agreement, and shall constitute the total Agreement between the parties, except as otherwise expressly provided in this Paragraph 2 and in Subparagraph 8.5. No amendment, addition to, or alteration of, the terms of this Agreement, whether written or oral, shall be valid unless the amendment is made in writing and formally approved and executed by both parties, except as provided in this Paragraph 2 or Subparagraph 8.5 in this Agreement. Notwithstanding anything to the contrary, CONTRACTOR and ADMINISTRATOR may mutually agree in writing to make revisions to the activities, tasks, deliverables and/or performance timeframes specified in the Project Summary as set forth in the Scope of Work in Exhibit A and to the allocation between and among the line items budgeted in the Project Budget, Exhibit B; provided however, any revisions do not alter the overall goals and basic purpose of the Agreement, and provided these changes do not increase COMMISSION's Maximum Payment Obligation.

2.1 CONTRACTOR. Work plans, budgets and scopes of services will be subject to an annual review on a mutually agreeable basis to determine consistency with the COMMISSION's strategic direction and goals and conformance with contract requirements and performance standards. Changes to the work plan, budgets and scopes of services may be directed by ADMINISTRATOR to bring the Agreement scope into better alignment with the COMMISSION's evolving strategic direction. Agreement changes if any, to be effective must be made in writing authorized and approved by both parties.

3. STATUS OF CONTRACTOR. CONTRACTOR is and shall at all times be deemed to be an independent CONTRACTOR and shall be wholly responsible for the manner in which it performs the Services required of it by the terms of this Agreement. Nothing in this Agreement shall be construed as creating the relationship of employer and employee or principal and agent between COMMISSION and CONTRACTOR or any of CONTRACTOR's agents or employees. CONTRACTOR knowingly, voluntarily, and expressly assumes exclusively the responsibility for the acts of its employees or agents as they relate to the Services to be provided during the course and scope of their employment, whether the employee(s) are funded by program moneys or otherwise related directly or indirectly to the performance of Services under this Agreement. CONTRACTOR, its, officers, agents, employees, and Subcontractors shall not, in any respect whatsoever, be entitled to any rights and/or privileges of COMMISSION employees and shall not be considered in any manner to be COMMISSION employees. COMMISSION shall neither have nor exercise any control or direction over the methods by which CONTRACTOR shall perform its obligations under this Agreement. COMMISSION shall not be responsible or liable for the acts or failure to act, whether intentional or negligent, of any employee, agent, or volunteer of CONTRACTOR.

3.1 COMMISSION Independent Entity. Notwithstanding other provisions in this Agreement, such as insurance and indemnity provisions protecting COMMISSION and the County

of Orange, CONTRACTOR acknowledges that pursuant to the Act, specifically Health & Safety Code Section 130140.1(a)(1), COMMISSION is a legal public entity separate from the County of Orange with independent powers and that in no event will CONTRACTOR look to the County of Orange for performance or indemnity under this Agreement, and CONTRACTOR expressly waives any rights it may have against the County of Orange in any way related to this Agreement. With respect to the above provisions CONTRACTOR agrees all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Section 1542 reads as follows:

CIVIL CODE SECTION 1542. CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS/HER FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS/HER SETTLEMENT WITH THE DEBTOR.

4. CONTRACTOR DELEGATION AND ASSIGNMENT. CONTRACTOR shall not delegate or assign or otherwise transfer its duties, nor assign its rights under this Agreement, either in whole or in part, without the prior written consent of ADMINISTRATOR. The request must be in writing with a full explanation for the request. Any consent granted by ADMINISTRATOR may be conditioned upon and subject to certain actions by CONTRACTOR as determined by ADMINISTRATOR. Any attempted assignment or delegation in derogation of this Paragraph 4 shall be deemed void.

5. SUBCONTRACTS. Except to the extent expressly provided for in the Project Summary, Exhibit A, or as approved by ADMINISTRATOR, CONTRACTOR shall not enter into a subcontract or a consulting agreement, or an agreement for professional services (each and all referred to as a "Subcontract") for the provision of services or performance of tasks included within the scope of the Services required by this Agreement without the prior written consent of ADMINISTRATOR. If ADMINISTRATOR consents in writing for CONTRACTOR to enter into a Subcontract, in no event shall the Subcontract alter in any way any legal responsibility or performance obligation of CONTRACTOR to COMMISSION to perform or cause performance of the Services required under this Agreement. ADMINISTRATOR may, but is not obligated to, require that CONTRACTOR submit a true copy of any permitted Subcontract. All records related to each Subcontract, if any, are subject to examination and audit by ADMINISTRATOR or his/her designee, for a period of the later of (i) three (3) years after the date of final disbursement under this Agreement, or (ii) until any pending audit is completed.

5.1 Minimum Subcontract Terms. Each permitted Subcontract and the terms and provisions in the Subcontract shall be independently negotiated between CONTRACTOR and its selected subcontractor, consultant, or other person or entity under contract to CONTRACTOR related to the Services to be provided under this Agreement ("Subcontractor"); provided however, each Subcontract shall include provisions that meet or exceed the following requirements: (i) any specific requirements set forth in the Project Summary, Exhibit A; (ii) clear and complete description of the nature, extent, and tasks of the work to be performed by the Subcontractor and the relation of the work to the Services required under this Agreement; (iii) identification of the personnel by classification, and, if available by name, who will work or provide services to CONTRACTOR under the Subcontract, including a description of the minimum qualifications, education, experience, and any required licensing for each classification of personnel, number of hours described in relation to

full time equivalent (e.g., 1.0 FTE or 0.5 FTE); (iv) a compensation schedule, including hourly rates or fees for each classification of personnel and a not to exceed payment obligation under the Subcontract, which total amount shall in no event exceed and shall be limited to amounts set forth in the Project Budget, Exhibit B; (v) insurance and indemnification comparable to the requirements and provisions set forth in this Agreement for CONTRACTOR to provide to COMMISSION, which insurance shall protect CONTRACTOR and COMMISSION, and the County of Orange from any Claims and other liabilities that arise out of the Subcontract and performance of Subcontractor under the Subcontract; (vi) term of Subcontract, which term shall not exceed the term of this Agreement; (vii) obligation to maintain and retain accurate and complete client and financial records, which recordkeeping shall be fully compliant with applicable laws and regulations and which records shall be maintained and retained for a minimum of three (3) years related to work and services provided under the Subcontract, (viii) remedies and termination provisions which may be availed by CONTRACTOR in the event Subcontractor fails to perform under the Subcontract, and (ix) compliance with laws and regulations applicable to CONTRACTOR, as a public entity, entering into contracts, including without limitation that any subcontract is duly authorized, approved, and executed and in compliance with notice and bidding and contracting requirements, if any, and prevailing wage laws, if applicable, pursuant to applicable laws and regulations.

6. GENERAL INDEMNIFICATION.

6.1 CONTRACTOR Indemnification of COMMISSION. CONTRACTOR agrees to and shall indemnify, defend, hold harmless COMMISSION, the County of Orange, and their officers, agents, and employees from and against all liability, claims, losses and demands, damages to property or injuries to or death of any person or persons, including property of officers, employees, or agents of COMMISSION or the County of Orange, including defense costs (together, "Claims"), whether resulting from court action or otherwise, resulting from, related in any manner to, or arising out of the intentional, malicious, negligent acts, inactions, errors or omissions of CONTRACTOR, its officers, employees, agents, and/or its Subcontractors in the performance of this Agreement.

6.1.1 With regard to this indemnity clause, COMMISSION acknowledges CONTRACTOR does not assume responsibility for payment of Claims to the extent a court of competent jurisdiction determines CONTRACTOR was not responsible for all or a part of the Claim(s), i.e., liability did not result from intentional, malicious, negligent acts, inactions, errors or omissions of CONTRACTOR, its officers, employees, agents, and/or Subcontractors in the performance of this Agreement, but were the result of the negligent or intentional act or omission of COMMISSION or its officers or employees. CONTRACTOR agrees the above provisions do not limit or affect its obligation to accept tender of defense and indemnification for a Claim from COMMISSION or ADMINISTRATOR. Provided however, if COMMISSION or its officers or employees are found liable for all or a part of the Claim by a court of competent jurisdiction due to negligent or intentional act or omission of COMMISSION or its officers or employees, then COMMISSION shall be responsible to pay the part of Claim it is determined responsible for and CONTRACTOR may recover costs of defense directly attributable to that part of the Claim.

6.1.2 Without limiting CONTRACTOR's indemnification, it is agreed that CONTRACTOR shall maintain in force at all times during the term of this Agreement, the policy or policies of insurance covering its operations and performance under this Agreement in the form and amounts set forth in Paragraph 7, which insurance obligations shall apply independently of all indemnification provided under this Agreement.

6.1.3 No elected official, no public official, no officer, no committee member, no employee, and no agent of COMMISSION or the County of Orange shall be personally liable to CONTRACTOR, or any successor in interest, (or to any Subcontractor) in the event of any default or breach by COMMISSION or for any amount that may become due to CONTRACTOR or to its successor (or Subcontractor) or for breach of any obligation of the terms of this Agreement.

6.2 COMMISSION Indemnification of CONTRACTOR. COMMISSION agrees to indemnify and hold harmless CONTRACTOR from all Claims, including defense costs, whether resulting from court action or otherwise, arising out of the sole intentional or grossly negligent acts or omissions of COMMISSION and its officers, agents or employees in the performance of this Agreement.

6.2.1 COMMISSION warrants it is self-insured or maintains policies of insurance placed with reputable insurance companies licensed to do business in the State of California which insures the perils of bodily injury, medical, professional liability and property damage.

6.2.2 No member of the board of directors of CONTRACTOR shall be personally liable to COMMISSION in the event of any default or breach of any obligation of the terms of this Agreement, except as to intentional misconduct or gross negligence of the member of the board of directors of CONTRACTOR.

6.3 Notice of Claim; Tender of Indemnification. Each party agrees to provide the indemnifying party with written notification of any Claim within thirty (30) days of notice of the Claim, to allow the indemnifying party control over the defense and settlement of the Claim, and to cooperate with the indemnifying party in its defense.

6.4 Defense of Claim. COMMISSION and CONTRACTOR, at their sole discretion and expense, may employ legal counsel and participate in the defense of any actions.

6.5 Cooperation with Claims. Each party to this Agreement shall cooperate with another party to this Agreement in the defense of any action brought for conduct resulting under this Agreement and shall make available to said party any and all records in their respective possessions or control reasonably required by a party for use in contesting or defending liability.

7. INSURANCE. Without limiting CONTRACTOR's liability for indemnification of COMMISSION as set forth in Paragraph 6 above, CONTRACTOR shall obtain and maintain in effect, during the term of this Agreement, the following insurance coverage and provisions:

7.1 Evidence of Coverage. Prior to commencement of any Services under this Agreement, CONTRACTOR shall provide on an insurance industry approved form a Certificate of Insurance certifying that coverage as required in this Paragraph 7 has been obtained and remains in force for the period required by this Agreement. In addition, a certified copy of the policy or policies shall be provided by CONTRACTOR upon request of ADMINISTRATOR at the address specified in Paragraph 22. Each policy shall meet the following requirements:

7.1.1 Additional Insured Endorsement: Except for Worker's Compensation and Professional Liability insurance, each policy shall include an endorsement evidencing that the policy also applies to COMMISSION, the County of Orange, the members of COMMISSION, the Board of

Supervisors of the County of Orange, and their officers, agents, and employees, individually and collectively, as additional insureds.

(a) **Primary Insurance Endorsement:** Each policy shall include an endorsement evidencing that the policy afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by COMMISSION or the County of Orange, or their officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy.

7.1.2 Notice of Cancellation or Change of Coverage Endorsement: Each policy shall include an endorsement evidencing that the policy shall not be canceled or changed so as to no longer meet the specified COMMISSION or County insurance requirements without thirty (30) days prior written notice of the cancellation or change being delivered to ADMINISTRATOR at the address shown on the Certificate of Insurance.

7.1.3 Separation Clause Endorsement: Each policy shall include an endorsement evidencing that the policy provides coverage separately to each insured who is seeking coverage or against whom a Claim is made or a suit is brought, except with respect to the company's limit of liability.

7.1.4 Termination of Insurance. If insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least two (2) years to report Claims arising from work performed, or any action or any inaction in connection with this Agreement.

7.1.5 Qualifying Insurers. All coverages shall be issued by insurance companies that must be:

(a) Rated A-:VIII or better or FPR Ratings of 9 through 7, and have a Financial Size Category (FSC) of VIII or better according to the current Best's Key Rating Guide/Property-Casualty/United States; or

(b) A company of equal financial stability that is approved by ADMINISTRATOR or his/her Risk Management designee; and

(c) Admitted in the State of California.

7.1.6 Deductible Amounts in Standard Policy. COMMISSION acknowledges that a deductible amount on a policy of insurance is acceptable, but only as approved in writing in the sole discretion of ADMINISTRATOR or his/her Risk Management designee; provided no approved deductible shall in any way limit liabilities assumed by CONTRACTOR under this Agreement, including:

(a) (a) Any policy deductible or self-insured retention on any insurance policy (except auto) which exceeds \$25,000 requires prior written approval of ADMINISTRATOR or his/her Risk Management designee.

(b) (b) Any policy deductible or self-insured retention on automobile liability over \$5,000 requires prior written approval of ADMINISTRATOR or his/her Risk Management designee.

7.1.7 Subcontractor Insurance Requirements. Should any of the Services under this Agreement be provided by a Subcontract, CONTRACTOR shall require each Subcontractor (of any tier) to provide the coverages mentioned in this Subparagraph 7.1, or CONTRACTOR may insure any Subcontractor under its own policies.

7.1.8 Occurrence Versus Claims Made Coverage. It is the intent of COMMISSION to secure “occurrence” rather than “claims made” coverage whenever possible. If coverage is written on a “claims made” basis, the Certificate of Insurance shall clearly so state. In addition to coverage requirements above, each policy shall provide that:

(a) (a) Policy retroactive date coincides with or precedes CONTRACTOR’s start of work (including subsequent policies purchased as renewals or replacements).

(b) (b) CONTRACTOR will make every effort to maintain similar insurance during the required extended period of coverage following completion of services, including the requirement of adding all additional insureds.

(c) (c) Policy allows for reporting of circumstances or incidents that might give rise to future claims.

7.2 Types of Insurance Policies/Coverages Required. CONTRACTOR shall provide insurance through a policy or policies with the following types and coverages, subject to the requirements of Subparagraph 7.1 above.

7.2.1 Comprehensive General Liability Insurance. Comprehensive General Liability Insurance for bodily injury (including death) and property damage which provides not less than One Million Dollars (\$1,000,000) combined single limit (CSL) per occurrence and not less than Five Million Dollars (\$5,000,000) general aggregate.

(a) The coverage shall include:

(i) Premises and Operations

(ii) Products/Completed Operations with limits of One Million Dollars (\$1,000,000) per occurrence/aggregate to be maintained for two (2) years following the end of the term of this Agreement.

(iii) Contractual Liability expressly including liability assumed under this agreement, excepting the requirement does not apply for service contracts.

(iv) Personal Injury Liability.

7.2.2 Comprehensive Automobile Liability Insurance. Comprehensive Automobile Liability Insurance for bodily injury (including death) and property damage which provides total limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles/watercraft, One Million Dollars (\$1,000,000) annual aggregate.

7.2.3 Workers' Compensation Insurance. Workers' Compensation Insurance shall be maintained. Statutory California Workers' Compensation coverage shall include a broad form all-states endorsement and waiver of subrogation.

7.2.4 Employers' Liability Coverage. Employers' Liability Coverage of not less than One Million Dollars (\$1,000,000) per occurrence for all employees engaged in Services or operations under this Agreement.

7.2.5 Professional Liability. If the Project Summary, Exhibit A, includes or requires staffing or services by a licensed professional, such as physician, dentist, pharmacist, registered nurse, psychologist, accountant, engineer, architect, etc., then insurance policy(ies) and coverage for professional liability/errors and omissions is required in an amount not less than One Million Dollars (\$1,000,000) per claims made and One Million Dollars (\$1,000,000) aggregate.

7.3 Duration of Insurance. CONTRACTOR shall maintain all coverage and insurance for the entire term and for any extended period agreed upon within this Agreement.

7.4 Maintain Records re Insurance Coverage. CONTRACTOR shall maintain records regarding all coverage and insurance for the term of this Agreement and for any extended period agreed upon within this Agreement.

7.5 Withhold Payment for Lack of Required Coverage. COMMISSION reserves the right to withhold payments to CONTRACTOR in the event of material noncompliance with the applicable insurance requirements outlined in this Paragraph 7.

7.6 Remedies for Failure to Provide or Maintain Required Insurance or Endorsements. In addition to any other remedies COMMISSION may have if CONTRACTOR (or any Subcontractor) fails to provide or maintain any insurance required by this Paragraph 7 to the extent and within the time required by this Agreement, COMMISSION may, at its sole option:

(a) (a) Obtain the insurance and deduct and retain the amount of the premiums for the insurance from any monies due under this Agreement.

(b) (b) Order CONTRACTOR (and any Subcontractor) to cease performance of the Services and/or withhold any payment(s) which become due to CONTRACTOR (or any Subcontractor) until CONTRACTOR (or Subcontractor) demonstrates compliance with the insurance requirements of this Agreement.

(c) (c) Immediately and without further cause terminate this Agreement.

(d) Exercise of any of the above remedies, however, is an alternative to any other remedies COMMISSION may have and are not the exclusive remedies for CONTRACTOR's (or Subcontractor's) failure to maintain or secure appropriate policies or endorsements. Nothing in this Agreement shall be construed as limiting in any way the extent to which CONTRACTOR (or any Subcontractor) may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's (or any Subcontractor's) performance under this Agreement.

8. RESPONSIBILITIES OF CONTRACTOR.

8.1 Conditions to COMMISSION's Obligation to Proceed under Agreement. COMMISSION's obligation to proceed with performance and the payment of each installment payment under this Agreement is expressly conditioned upon the satisfaction by CONTRACTOR of the following conditions precedent ("Conditions"). These Conditions are solely for the benefit of COMMISSION and shall be fulfilled by CONTRACTOR (or waived by ADMINISTRATOR in his/her sole discretion in the Project Summary, Exhibit A.) CONTRACTOR may satisfy (and submit evidence of its satisfaction to ADMINISTRATOR) one or more of the Conditions at any time prior or subsequent to the Date of Agreement, so that at the time of the first payment (and any subsequent payments), CONTRACTOR shall have provided satisfactory evidence of compliance with each of the Conditions.

8.1.1 Evidence of CONTRACTOR Approval of Agreement. CONTRACTOR shall submit evidence of the approval of this Agreement by resolution of CONTRACTOR's governing board or other evidence of approval satisfactory to ADMINISTRATOR.

8.1.2 Corporate Documents; Corporate Status. True copies of CONTRACTOR's current articles of incorporation, bylaws, or other organizational documents, evidence of active entity status and good standing from appropriate State officials, and if applicable, certification of current Internal Revenue Code (IRC) Section 501(c)(3) tax exempt status.

8.1.3 Insurance. All provisions and submittal of endorsements or other evidence of insurance required by Paragraph 7 shall be in place and approved by ADMINISTRATOR or his/her Risk Management designee.

8.1.4 Other Conditions. CONTRACTOR has complied with the other Conditions listed in the Project Summary, Exhibit A, if any.

8.2 No Supplanting Government Funds. CONTRACTOR shall not supplant government funds intended for the purposes of this Agreement with any funds intended for the purposes of this Agreement. CONTRACTOR shall not submit an invoice for payment from COMMISSION, or apply sums received from COMMISSION with respect to that portion of its obligations which have been paid by another source of revenue. As a material provision of this Agreement and substantive criterion in COMMISSION's selection of CONTRACTOR for the Services provided under this Agreement and in furtherance of the express directives of the Act, CONTRACTOR is required to ensure that in the performance of this Agreement all funding shall be expended and used to supplement, not supplant, existing levels of service.

8.3 [Reserved]

8.4 Staffing Obligations for Services. COMMISSION and CONTRACTOR agree that the Scope of Work, the level and description of Services, and the classification, number, and qualifications of personnel and staff necessary for the Services, and budget for staffing to be provided by CONTRACTOR in furtherance of the Strategic Plan and the Act are set forth in the Exhibits. CONTRACTOR agrees to provide the level and type of staffing, facilities, equipment and supplies necessary to provide the Services and meet the outcomes set forth in these Exhibits. CONTRACTOR shall perform continuously throughout the term of this Agreement in conformity with this Agreement, including all Exhibits.

8.4.1 Staffing Conferences. Upon the request of ADMINISTRATOR, CONTRACTOR agrees to send appropriate staff to attend orientation session(s) and/or progress meeting(s) arranged and/or given by COMMISSION and/or ADMINISTRATOR. A requested meeting shall occur at a time and place mutually agreeable between the parties.

8.4.2 Personnel Disclosure. At ADMINISTRATOR's request, CONTRACTOR shall make available to ADMINISTRATOR a current list of all personnel providing Services or performing any work under this Agreement, including personnel of any Subcontractor. Changes to the list shall be immediately provided to ADMINISTRATOR. CONTRACTOR shall prepare and maintain up-to-date personnel records and information about its employees and, if requested by ADMINISTRATOR and to the extent permitted by applicable laws, make available to ADMINISTRATOR the following information/records:

(a) The required list of personnel, including any Subcontractor, shall include each of the following:

(i) All full time staff positions and all part-time staff positions by title, including volunteer positions, who are assigned to, performing under, and/or providing Services.

(ii) The qualifications and experience, including professional degree(s) and required licensing, if applicable, required for each position.

(iii) The language skill(s), if applicable, of the personnel, such as bilingual, sign language, Braille, or other communication skills.

(b) CONTRACTOR shall immediately notify ADMINISTRATOR concerning the arrest and/or subsequent conviction, for other than minor traffic offenses, of any paid employee and/or volunteer staff providing Services under this Agreement when the information becomes known to CONTRACTOR.

8.4.3 CONTRACTOR to Maintain Complete Records re Personnel. CONTRACTOR shall maintain complete and accurate records relating to all personnel listed (or required to be listed) in Subparagraph 8.4.2 above. The record keeping shall include evidence that CONTRACTOR has conducted adequate pre-employment (pre-volunteer) screening, such as information CONTRACTOR has conducted or caused to be conducted on each employee a pre-employment/hiring background check and CONTRACTOR has taken all reasonable steps to assure all employees (and volunteers) assigned to perform Services under this Agreement are suitable to perform the work and do not pose a reasonably foreseeable risk of harm to children or other persons receiving or participating in the Services. CONTRACTOR acknowledges it has a duty to disclose to COMMISSION and ADMINISTRATOR information within its knowledge that may pose a reasonably foreseeable risk of harm to children. Nothing in the above provisions shall obligate CONTRACTOR to disclose to COMMISSION or ADMINISTRATOR confidential personnel information about employees (or volunteers) except and to the extent disclosure is permitted by applicable laws or authorized by judicial or administrative order. Further, nothing in the above provisions shall affect or modify the provisions of this Agreement affirming the independent contractor status of CONTRACTOR.

8.5 Implementing Exhibits. As directed by ADMINISTRATOR during the term of this Agreement and pursuant to the Exhibits CONTRACTOR will be required to prepare and submit to

ADMINISTRATOR certain planning and implementing documents regarding the Services under this Agreement aimed toward achieving the outcomes set forth in the Work Plan, Exhibit A-1. The planning and implementing documents may include, but not be limited to, service plan(s), and/or business plan(s), and/or supplements to the Work Plan, each of which may clarify and/or further describe and define the Services required under this Agreement and date(s) required for performance of certain tasks which comprise the Services. As each implementing document is prepared by CONTRACTOR and submitted to, reviewed by, and approved by ADMINISTRATOR, it shall become and be deemed to be part of the Exhibits to and fully incorporated as a part of this Agreement. CONTRACTOR shall perform and meet the tasks and requirements set forth in all Exhibits as performance obligations of this Agreement.

9. GENERAL TERMS AND CONDITIONS.

9.1 Compliance with Laws. CONTRACTOR shall provide all Services in accordance with all applicable federal and state laws, statutes and regulations and local ordinances and resolutions. CONTRACTOR shall comply with the Act, and all laws, rules or regulations applicable to the Scope of Work and provision of Services, as any may now exist or as changed or added after the Date of Agreement. Without limiting the foregoing, where applicable, CONTRACTOR is subject to all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-91, enacted August 21, 1996, and the laws and regulations promulgated subsequent thereto. If applicable, CONTRACTOR agrees to cooperate in accordance with the terms and intent of this contract for implementation of relevant law(s) and/or regulation(s) promulgated under this Law. If CONTRACTOR is subject to HIPAA, the Contractor further agrees that it shall be in compliance, and shall remain in compliance with the requirements of HIPAA, and the laws and regulations promulgated subsequent hereto, as may be amended from time to time.

9.2 Familiarity with Work. By executing this Agreement and prior to performing or providing any Services under this Agreement, CONTRACTOR warrants and shall be satisfied that (a) it has thoroughly investigated and considered the Services, (b) it has carefully considered how the Services should be performed, will be implemented, and will be completed, and (c) it fully understands the facilities, difficulties, and restrictions, attending carrying out the performance obligations of this Agreement. Should CONTRACTOR discover any latent or unknown conditions materially differing from those inherent in the work or as represented by COMMISSION or ADMINISTRATOR, it shall immediately inform COMMISSION in writing of this fact and shall not proceed except at CONTRACTOR's risk until written instructions are received from ADMINISTRATOR.

9.3 Care of Work. CONTRACTOR shall adopt reasonable methods during the term of this Agreement to furnish continuous protection to the property (real and personal property), facilities, equipment, and persons providing and/or receiving Services, and to the work product, records, and other papers to prevent losses or damages. CONTRACTOR shall be responsible for all losses or damages, to persons or property (including real property, personal property, both tangible and intangible), except the losses or damages as may be caused by COMMISSION's sole negligence. The performance of Services by CONTRACTOR shall not relieve CONTRACTOR from any obligation to correct any incomplete, inaccurate, or defective work or service at no further cost to COMMISSION, when the inaccuracies are due to the negligence, action, or inaction of CONTRACTOR.

9.4 Severability. If a court of competent jurisdiction declares any provision of this Agreement or its application to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement or its application shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

9.5 California Law. This Agreement shall be construed and interpreted both as to validity and to performance in accordance with the laws of the State of California. Legal actions concerning any default, dispute, interpretation, declaration of rights, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in the county, and CONTRACTOR covenants and agrees to submit to the personal jurisdiction of the court in the event of any action.

9.6 Waiver. No delay or omission in the exercise of any right or remedy of a non defaulting party on any default shall impair any right or remedy or be construed as a waiver. One party's consent or approval of any act by the other party requiring the other party's consent or approval shall not be deemed to waive or render unnecessary the party's consent to or approval of any subsequent act of the party. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

9.7 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of the rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

9.8 Covenant against Discrimination. In the performance of this Agreement, CONTRACTOR shall not engage in, nor permit any employee or agent to engage in discrimination in employment of persons or provision of Services or assistance, nor exclude any person from participation in, nor deny any person the benefits of, nor or subject any person to discrimination under any program or activity funded in whole or in part with COMMISSION funds on the grounds of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender or sexual orientation, except as permitted by applicable provisions of Federal and State law. CONTRACTOR shall comply with Title II of the Americans with Disabilities Act, (42 U.S.C. §12101, et. seq.) as it relates to public accommodations.

9.9 Legal Action. In addition to any other rights or remedies, either party may take legal action, at law or at equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

9.10 Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the non-prevailing party.

9.11 Waiver of Jury Trial. Both COMMISSION and CONTRACTOR agree and acknowledge that each is aware of and has had the opportunity to seek advice of counsel of its choice

with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, expressly and knowingly waives and releases all rights to trial by jury in any action, proceeding or counterclaim brought by any party against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters of any kind or type arising out of or in any way connected with this Agreement and/or any other claim of injury or damage.

9.12 Publicity. Information and solicitations, prepared and released by CONTRACTOR, concerning the Services provided under this Agreement, shall state that the Services, wholly or in part, are funded through COMMISSION.

9.13 Time of Essence. Time is of the essence in the performance of this Agreement.

9.14 No Broker or Finders Fee. CONTRACTOR warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

9.15 No Use of Funds for Lobbying. CONTRACTOR shall not expend any monies paid or payable under this Agreement for the purpose of influencing or attempting to influence an officer, member, or employee of COMMISSION, a member of the Orange County Board of Supervisors, any County of Orange officer, or employee, any member or employee of the State Commission, any member of the State legislature, or member of Congress, or any other officer or employee of any public agency or entity, in connection with the awarding of any contract, the making of any grant, the entering into of any cooperative agreement, and/or the extension, continuation, renewal, amendment, or modification of any contract, grant, loan, or cooperative agreement.

9.16 Constitutional Use of Funds. As an express condition to this Agreement, CONTRACTOR agrees that the funds provided by COMMISSION to CONTRACTOR shall not be used to promote any religion, religious creed or cult, denomination, sectarian organization or religious belief or to fund any proselytizing activities. The parties agree the above covenant is intended to and shall be construed for the limited purpose of assuring compliance with respect to the use of COMMISSION funds by CONTRACTOR with applicable constitutional limitations respecting the establishment of religion as set forth in the establishment clause under the First Amendment of the United States Constitution and Article I, Section 4 of California Constitution, and is not in any manner intended to restrict other activities of CONTRACTOR.

9.17 Child Abuse Reporting. CONTRACTOR shall establish a procedure to ensure that all employees, volunteers, consultants, agents, or Subcontractors performing Services under this Agreement, report child abuse or neglect to a child protective agency as defined in Penal Code Section 11165.9 to the extent required by applicable law. CONTRACTOR shall require each employee, volunteer, agent, and Subcontractor who provides Services to or for CONTRACTOR in implementation of the Scope of Work described in Exhibit A and funded by this Agreement (to the extent the person(s) are legally subject to the requirements), to sign a statement acknowledging the reporting requirements and to comply with the provisions of the code requirements to the extent required by applicable law.

9.18 CONTRACTOR Cooperation with Other COMMISSION Contractors. A goal of COMMISSION and its Strategic Plan is to develop an integrated quality service system to ensure access to a quality child and family support services delivery system for Orange County children

from the prenatal stage to age five. CONTRACTOR agrees to cooperate reasonably with COMMISSION and ADMINISTRATOR to achieve the objectives of the Strategic Plan and support COMMISSION by forming cooperative partnerships to serve prenatal through age five children (and their families) with other services funded through COMMISSION.

9.19 Political Activity. CONTRACTOR agrees that the funds provided in this Agreement shall not be used to promote, directly or indirectly, any political party, political candidate or political activity, except as permitted by law.

9.20 Child Care Provider Notification; Admission Procedures and Parental and Authorized Representative's Rights. If applicable to the Services, CONTRACTOR shall establish and carry out the requirements of California Code of Regulations (CCR) Title 22 relating to child care providers and provision of licensed child care, day care, or other early care and education. If applicable, CONTRACTOR shall comply with CCR Title 22, Section 101218.1 to ensure all parents and authorized representatives of minor children, in particular children prenatal through age five receiving Services under this Agreement, are notified regarding any employee, volunteer, consultant, or agent of CONTRACTOR with a criminal record exemption. In accordance with applicable laws and regulations CONTRACTOR shall (i) post a current copy of the California Department of Social Services (CDSS) Parents' Rights Poster in a prominent location; (ii) provide all parents and authorized representatives current copies of all CDSS notification forms and retain all parent signature or acknowledgement portions of those forms in the child's file; (iii) provide parents and authorized representatives on request the name of any adult associated with CONTRACTOR (including any employee, volunteer, consultant or agent of CONTRACTOR) who has been granted a criminal record exemption and that person's relationship to CONTRACTOR. To the extent required by applicable laws and regulations, CONTRACTOR shall document parent and authorized representative requests regarding criminal exemption and retain the documentation, jointly signed by an authorized representative of CONTRACTOR and the parent or authorized representative, in the child's file.

10. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR. CONTRACTOR makes the following representations and warranties to COMMISSION. These representations and warranties are ongoing and CONTRACTOR shall advise ADMINISTRATOR in writing if there is any change pertaining to any matters set forth or referenced in the following Subparagraphs 10.1 through 10.6, inclusive.

10.1 No Conflict. To the best of CONTRACTOR's knowledge, CONTRACTOR's negotiation, consideration and action on this Agreement and CONTRACTOR's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which CONTRACTOR is a party or by which it is bound.

10.1.1 CONTRACTOR agrees that no officer, employee, agent or assignee of COMMISSION having direct or indirect control of any monies allocated by COMMISSION, inclusive of the subject funds, shall serve as an officer or director of CONTRACTOR without the express written acknowledgement of COMMISSION.

10.1.2 Further, any conflict or potential conflict of interest of any officer or director of CONTRACTOR shall be fully disclosed in writing prior to the execution of this Agreement and shall be attached to and become a part of this Agreement.

10.2 No Bankruptcy. CONTRACTOR is not the subject of any current or threatened bankruptcy.

10.3 No Pending Legal Proceedings. CONTRACTOR is not the subject of a current or threatened litigation that would or may materially affect CONTRACTOR's performance under this Agreement.

10.4 Application Veracity. All provisions of and information provided in CONTRACTOR's request for proposal for funding submitted to COMMISSION including exhibits are true and correct in all material respects.

10.5 No Pending Investigation. CONTRACTOR is not aware that it is the subject of any current or threatened criminal or civil action investigation by any public agency, including without limitation a police agency or prosecuting authority, related, directly or indirectly, to the provision of Services under this Agreement.

10.6 Licenses and Standards; Compliance with Laws. CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, County of Orange, any local jurisdiction in which it may do business and/or provide Services, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of this Agreement. Further, CONTRACTOR shall only contract with Subcontractors that are duly licensed, insured, and qualified to provide Services under this Agreement, as applicable. Further, CONTRACTOR warrants that its employees, agents, contractors, and Subcontractors shall conduct themselves in compliance with the laws and licensure requirements including, without limitation, compliance with laws applicable to non discrimination, sexual harassment, and ethical behavior.

10.6.1 Failure to Obtain or Maintain Licenses. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of any appeal, any of the permits, licenses, approvals, certificates, waivers and exemptions. The inability shall be cause for termination of this Agreement by COMMISSION or ADMINISTRATOR.

11. FORM OF BUSINESS ORGANIZATION AND REAL PROPERTY DISCLOSURE.

11.1 Form of Business Organization. Upon the request of ADMINISTRATOR, CONTRACTOR shall prepare and submit, within thirty (30) days from the request, an affidavit executed by persons satisfactory to ADMINISTRATOR containing, but not limited to the following information:

11.1.1 Confirmation of the form of CONTRACTOR's business organization, i.e., type of non-profit corporation, and if CONTRACTOR is a for profit entity, whether it is a general or limited partnership, corporation, limited liability company.

11.1.2 A detailed statement indicating the relationship of CONTRACTOR, by way of ownership or otherwise, to any parent organization or individual.

11.1.3 A detailed statement indicating the relationship of CONTRACTOR to any subsidiary business organization or to any individual that may be providing service, supplies,

material or equipment to CONTRACTOR or in any manner does business with CONTRACTOR under this Agreement.

11.1.4 A detailed statement indicating the relationship of CONTRACTOR to any subsidiary business organization or to any individual that also is a grantee of COMMISSION funds and/or may be providing services, supplies, material or equipment to COMMISSION through an agreement comparable to this Agreement.

11.2 Change in Form of Business Organization. If during the term of this Agreement, the form of CONTRACTOR's business organization changes, or the beneficial ownership of CONTRACTOR changes, or CONTRACTOR's relationship to other businesses dealing with CONTRACTOR under this Agreement changes, CONTRACTOR shall promptly notify ADMINISTRATOR, in writing, detailing the changes. A substantial change in the form of business organization may, at ADMINISTRATOR's and/or COMMISSION's sole discretion, be treated as an attempted assignment of rights or delegation of duties of this Agreement.

12. CONFIDENTIALITY. CONTRACTOR and COMMISSION shall maintain the confidentiality of all records, including any hard copies, and/or electronic or computer based data, and/or audio and/or video recordings, in accordance with all applicable state and federal codes and regulations relating to privacy and confidentiality, and with COMMISSION's adopted Data Sharing Protocol relating to privacy and confidentiality, as each now exists or may be amended after the Date of Agreement.

12.1 CONTRACTOR Obligation.

12.1.1 All records and information concerning any and all persons referred to CONTRACTOR by COMMISSION or COMMISSION's designee shall be considered and kept confidential by CONTRACTOR, CONTRACTOR's staff, agents, employees and volunteers.

12.1.2 CONTRACTOR shall require its employees, agents and volunteers to sign an acknowledgement or other certification which certifies that they will keep the identities and any information with respect to any and all service recipients of CONTRACTOR related to Services authorized under this Agreement confidential except as may be required to provide Services under this Agreement to comply with any reporting and auditing requirements specified in this Agreement, and any other information required by COMMISSION in the administration of this Agreement, and as otherwise permitted by law.

12.1.3 CONTRACTOR agrees that any and all approved subcontracts entered into shall be subject to the confidentiality requirements of this Agreement.

12.1.4 CONTRACTOR shall inform all of its employees, agents, Subcontractors, volunteers and partners of this provision that any person knowingly and intentionally violating the provisions of federal, state or local confidentiality laws may be guilty of a crime and/or subject to civil action.

12.2 COMMISSION Obligation. COMMISSION shall maintain the confidentiality of patient or service recipient records made available pursuant to this Agreement in accordance with all provisions of the law, and regulations promulgated in implementation of these laws, relating to privacy and confidentiality, and the customary standards and practices of government third-party

payors. CONTRACTOR acknowledges this confidentiality may be limited by public records and freedom of information laws.

12.3 Authorized Data Sharing. The provisions of Subparagraphs 12.1.1 and 12.1.2, 12.1.3, and 12.1.4 are not applicable to authorized data sharing pursuant to COMMISSION funded projects and/or as permitted by law.

13. INTERPRETATION OF CONTRACT REQUIREMENTS. If either party or the parties together identify a term or provision under this Agreement which is subject to interpretation or requires clarification or additional direction, the interpretation issue shall be identified in writing by either party and submitted to the other party, then CONTRACTOR's representative(s) and ADMINISTRATOR shall meet and seek to resolve the interpretation issue to the mutual satisfaction of the parties. In this regard, ADMINISTRATOR is vested with the right to issue interpretation(s) and waiver(s) and modification(s) to the terms and provisions of this Agreement so long as the interpretation(s) and waiver(s) and modification(s) does/do not substantively or materially amend or modify this Agreement. If the interpretation issue is not or cannot be disposed of within a reasonable period of time between CONTRACTOR's representative(s) and ADMINISTRATOR, or other staff designee, the matter may be brought to the attention of COMMISSION, as elected by the ADMINISTRATOR. If consensus cannot be reached through this application, either party may assert its other rights and remedies within this Agreement or within a court of competent jurisdiction. COMMISSION and CONTRACTOR agree that, in the event of an interpretation issue, they will continue without delay to carry out all their responsibilities under this Agreement that are not affected by the issue.

14. REPORTING REQUIREMENTS.

14.1 Reports. Separate from any separate reports specified in the Project Summary, Exhibit A, or the Work Plan, Exhibit A-1, CONTRACTOR shall prepare and submit to ADMINISTRATOR performance-reports in accordance with Paragraph 19 of this Agreement concerning the performance of the Services required by this Agreement and any other reports as ADMINISTRATOR may reasonably require.

14.2 Ancillary Reporting Requirement Related to Enforcement of Child Support Obligations.

14.2.1 County Requirements. In order to comply with child support enforcement requirements of the County of Orange, CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) days of the award of this Agreement:

(a) in the case of an individual CONTRACTOR, his/her name, date of birth, Social Security number, and residence address;

(b) in the case of a CONTRACTOR doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;

(c) a certification that CONTRACTOR has fully complied with all applicable Federal and State reporting requirements regarding its employees; and

(d) a certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

14.2.2 Failure to Comply Breach. The failure of CONTRACTOR to timely submit the data or certifications required by Subparagraphs (a), (b), (c), or (d), or to comply with all federal and state employee reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of this Agreement, and failure to cure the breach within sixty (60) calendar days of notice from the County of Orange (or COMMISSION) shall constitute grounds for termination of this Agreement.

14.2.3 Use of Data Solely for Government Enforcement of Child Support Orders. It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders, and for no other purpose.

15. AUDITS. CONTRACTOR shall prepare and maintain adequate records of its performance under this Agreement in sufficient detail to permit an evaluation of the work and Services and an audit of records as described in this Agreement.

15.1 Other and Additional Auditing Authority—Retention of Rights to Audit Performance under Agreement. COMMISSION and ADMINISTRATOR and their authorized representatives, and the State Commission and any of its authorized representatives, reserve all rights and shall have access to any books, documents, papers and records, including medical records, of CONTRACTOR (and any Subcontractor) which any of them may determine to be pertinent to this Agreement for the purpose of financial monitoring or any audit conducted by an independent certified public accountants concerning CONTRACTOR and its performance under this Agreement (including any Subcontractor.) Further, all the above mentioned persons have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement and the premises in which it is being performed.

15.2 Availability of Records for Auditing Purposes. In the event that CONTRACTOR's corporate headquarters and its financial records are located outside the borders of Orange County, California, then CONTRACTOR shall make available its books and financial records within the borders of Orange County within ten (10) days after receipt of written demand by ADMINISTRATOR for any audit purposes under this Agreement. All CONTRACTOR's books of accounts and records related and applicable to any costs of Services, client fees, charges, billings and revenues received directly or indirectly related to the Services shall be made available at one (1) location within the limits of the County of Orange. All records specified in this Subparagraph 15.4 and maintained pursuant to the terms of this Agreement shall be made available, after appropriate advance notice and during the party's normal business hours, to designated representatives of the Auditor General of the State of California, the State of California Children and Families Commission, an entity independent of the State of California, COMMISSION, an entity independent from the County of Orange, and any other entities as required by State statute or court order. In the event CONTRACTOR does not make available its books and financial records for the Services within the borders of Orange County for the Fiscal Audit, CONTRACTOR agrees to pay all necessary and reasonable expenses incurred by COMMISSION, or ADMINISTRATOR, or their designee(s) necessary to obtain, review, and audit CONTRACTOR's books and financial records.

15.3 Monitoring. COMMISSION, ADMINISTRATOR, and the State Commission and/or their representatives are authorized to conduct on-site monitoring at their discretion during reasonable times, including the option of unannounced on-site monitoring as elected in the Exhibits. Monitoring activities may also include, but are not limited to, questioning employees (and volunteers) and participants for the subject Services and entering any premises or any site in which any of the Services funded by this Agreement are conducted or in which any of the records of CONTRACTOR (or any Subcontractor) are kept. Nothing in this Agreement shall be construed to require access to any privileged or confidential information as set forth in federal or state law.

16. MAXIMUM PAYMENT OBLIGATION. The “Maximum Payment Obligation” of COMMISSION to CONTRACTOR under this Agreement shall be nine hundred forty-one thousand seven hundred fifty dollars (\$[941,750]) or the actual reasonable cost incurred and paid for performance of the Services, whichever is less. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the total Maximum Payment Obligation by an amount(s) not to exceed ten percent (10%).

16.1 Multi-Year Contracts. For multi-year contracts, the Maximum Payment Obligation for each period shall be as follows:

16.1.1 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period November 15, 2009 through November 14, 2010 shall be \$215,750.00. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the Maximum Payment Obligation for the period specified in this Subparagraph 16.1.1 by an amount(s) not to exceed ten percent (10%).

16.1.2 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period November 15, 2010 through November 14, 2011 shall be \$181,500.00. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the Maximum Payment Obligation for the period specified in this Subparagraph 16.1.2 by an amount(s) not to exceed ten percent (10%).

16.1.3 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period November 15, 2011 through November 14, 2012 shall be \$181,500.00. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the Maximum Payment Obligation for the period specified in this Subparagraph 16.1.3 by an amount(s) not to exceed ten percent (10%).

16.1.4 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period November 15, 2012 through November 14, 2013 shall be \$181,500.00. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the Maximum Payment Obligation for the period specified in this Subparagraph 16.1.3 by an amount(s) not to exceed ten percent (10%).

16.1.5 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period November 15, 2013 through November 14, 2014 shall be \$181,500.00. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to increase the Maximum Payment Obligation for the period specified in this Subparagraph 16.1.3 by an amount(s) not to exceed ten percent (10%).

16.2 [Reserved]

16.3 Payments. COMMISSION shall pay CONTRACTOR installment payments monthly or quarterly in arrears, at ADMINISTRATOR's sole discretion, for actual reasonable costs incurred and paid by CONTRACTOR to perform the Services required by this Agreement in accordance with the amounts and categories specified in the Project Budget, Exhibit B, for the Services; provided, however, that payments for each line item shall not exceed the amount specified, and provided however, ADMINISTRATOR may approve adjustments of the amount set forth within each line item, so long as the total of all amounts within all line items, as adjusted, shall not exceed COMMISSION's Maximum Payment Obligation. Notwithstanding the quarterly installment payments and exclusive of the initial payment (if any) an amount equal to ten percent (10%) of each quarterly invoice shall be withheld by COMMISSION through ADMINISTRATOR as the Retention Amount (defined in Subparagraph 16.6 below) pending the timely and successful completion of each Fiscal Audit as more fully described in Paragraph 15.

16.4 Indirect Cost Rate. CONTRACTOR shall apportion any indirect costs attributable to this Agreement determined by the Maximum Payment Obligation solely attributable and allocable to Services under this Agreement as the percentage of CONTRACTOR's total revenue received during the previous fiscal year. Notwithstanding anything to the contrary, CONTRACTOR's indirect cost rate shall in no event exceed ten percent (10%) of the applicable funding under this Agreement. [This Agreement does not currently provide for any indirect cost billing.]

16.5 Invoices. CONTRACTOR shall submit completed invoices quarterly upon a form approved or supplied by ADMINISTRATOR.

16.5.1 Each quarterly invoice shall be submitted with an express written certification by CONTRACTOR representing and affirming to COMMISSION the following: (1) CONTRACTOR has and maintains accurate records evidencing the requested quarterly payment, including without limitation the following: (a) original invoice(s), (b) original and/or true copies of source documents including, inter alia, statement of work performed, itemized on a monthly basis, general ledgers, supporting journals, time sheets, invoices, canceled checks (if received) or bank statements, receipts, and receiving records, and (c) originals and/or true copies of other receipts, agreement(s), or other documentation supporting and evidencing how the funds have been expended during the applicable quarter; provided however, for the first quarterly payment ADMINISTRATOR in his/her sole discretion may consider and approve an invoice from CONTRACTOR that includes reimbursement of CONTRACTOR expenses incurred prior to the Date of Agreement, as more fully set forth in the Project Budget, Exhibit B; and (2) the Services provided during the preceding quarter (or other period for which payment is requested) have not and do not supplant existing services but in fact enhance or establish new services to Orange County's prenatal through age five children.

16.5.2 CONTRACTOR shall maintain, at CONTRACTOR's facility, source documentation for all invoices including, but not limited to, ledgers, journals, time sheets, invoices, bank statements, canceled checks, receipts, receiving records, and records of services provided.

16.5.3 COMMISSION shall exercise reasonable efforts to cause the quarterly payments to be released within a reasonable time period from submittal of a complete invoice and current compliance with quarterly reporting obligations of Paragraphs 14 and 19, approximately thirty (30) days after receipt of the invoice.

16.6 [Reserved]

16.7 Final Invoice/Settlement. Any and all final invoices for Services must be received by ADMINISTRATOR no later than sixty (60) days after the end of the term of this Agreement or sixty (60) days from the date of the earlier termination of this Agreement. Invoices for Services received after this date and time may not be processed for payment or reimbursed. CONTRACTOR and ADMINISTRATOR may mutually agree in writing to modify the date upon which the final invoice must be received.

16.8 Source of Funding Limited to COMMISSION Funding. CONTRACTOR knowingly and expressly acknowledges and agrees that the sole source of funding provided and to be provided pursuant to this Agreement is and shall only be from monies allocated, received, and available to COMMISSION from the surcharges, taxes, and revenues collected and allocated to COMMISSION through the provisions of the Act. To the extent, if at all, any or all provisions of the Act are found invalid, stayed, tolled, or are modified by litigation, subsequent initiative, or legislation, and the funding provided for under this Agreement is affected, then COMMISSION is and shall be relieved of obligations under this Agreement, or this Agreement shall be modified and/or amended to conform to the changes, if any, to the Act, as elected by COMMISSION. If COMMISSION is not allocated and/or does not receive adequate funding for its performance under this Agreement, then COMMISSION shall be relieved of obligations under this Agreement, or this Agreement shall be amended to conform to the changes, if any, in funding allocations or changes, if any, to the Act, as elected by COMMISSION.

16.9 [Reserved]

17. OVERPAYMENTS. Any payment(s) made by COMMISSION to CONTRACTOR in excess of that to which CONTRACTOR is entitled under this Agreement shall be immediately due to COMMISSION and repaid by CONTRACTOR. In this regard, CONTRACTOR shall make repayment on any overpayment within thirty (30) days after the date COMMISSION or ADMINISTRATOR requests the repayment. CONTRACTOR agrees to pay all fees and costs, including attorneys' fees, incurred by COMMISSION necessary to enforce the provisions set forth in this Agreement.

17.1 Offset Permitted. In the event an overpayment has been made or exists, ADMINISTRATOR may reconcile and offset the amount of the overpayment against the next installment payment due or against the final invoice amount due and to be paid, as elected in the sole discretion of ADMINISTRATOR. In the event the overpayment exceeds the final payment, the amount is immediately due and payable and CONTRACTOR shall pay COMMISSION the sum within five (5) days of written notice from ADMINISTRATOR. Nothing in this Agreement shall be construed as limiting the remedies of COMMISSION in the event that an overpayment has been made.

17.2 Offset Permitted under Subsequent Renewal or Other Pending Contract. COMMISSION's Strategic Plan is implemented through funding of various initiatives and certain contractors/funding recipients are and have been awarded multiple or renewed funding for services related and/or comparable to the Services provided under this Agreement. CONTRACTOR agrees that if this Agreement is either (i) a renewal contract related to prior funding to CONTRACTOR for services comparable to the Services, or (ii) CONTRACTOR has one or more other contracts pending with COMMISSION with term or terms concurrent in whole or in part with this Agreement, then in

the event an overpayment has been made or exists under this Agreement ADMINISTRATOR may reconcile and offset the amount of the overpayment against monies payable under the renewal contract or other contract pending with COMMISSION.

18. RECORDS.

18.1 Maintain Complete Books and Records. CONTRACTOR shall keep the books and records as shall be necessary relating to the Services so as to enable ADMINISTRATOR to evaluate the cost and the performance under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with Generally Accepted Accounting Principles (GAAP). ADMINISTRATOR, COMMISSION, and their staff, general legal counsel, and other COMMISSION consultants (as approved by ADMINISTRATOR) shall have full and free access to all books and records of CONTRACTOR (and any Subcontractor), pertinent to this Agreement, at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from the records.

18.1.1 CONTRACTOR shall prepare and maintain accurate and complete financial records of its business operations and in particular all records related to the Services. Financial records shall be retained by CONTRACTOR for a minimum of three (3) years from the date of payment on the final invoice submitted by CONTRACTOR to ADMINISTRATOR under this Agreement or three (3) years after all pending audits are completed, whichever is later.

18.2 Separation of Accounts. All funds received by CONTRACTOR from COMMISSION pursuant to this Agreement shall be maintained in an account in a federally insured banking or savings and loan institution with record keeping of the accounts maintained pursuant to reasonable and prudent business practices. CONTRACTOR is not required to maintain separate depository accounts for funds; provided however, CONTRACTOR must be able to account for receipt, obligation and expenditure of all COMMISSION funds.

18.3 Form of Records. CONTRACTOR may retain records in any reasonable and customary format and/or form as mutually determined in writing between CONTRACTOR and ADMINISTRATOR. The following forms of records are acceptable and pre-approved between the parties:

- (a) original hard copies;
- (b) information may be saved/retained electronically in a readily retrievable basis through a Microsoft Word™ 97 or comparable or compatible format in accordance and consistent with standard business practices, customs, and records retention procedures of businesses in Orange County, California;
- (c) financial data and other spreadsheet information may be saved/retained electronically in a readily retrievable basis through a Microsoft Excel™ or comparable or compatible format in accordance and consistent with standard business practices, customs, and records retention procedures of businesses in Orange County, California; or
- (d) microfilm or microfiche.

18.4 Release of Records. The records of Services, data, surveys, drawings, specifications, reports, records, documents, evaluation reports and other materials prepared by CONTRACTOR in the performance of this Agreement shall not be released publicly without the prior written approval of ADMINISTRATOR or as required by law. CONTRACTOR shall not disclose to any other private entity or person any information regarding the activities of COMMISSION, except as required by law or as authorized by ADMINISTRATOR. Further, COMMISSION and CONTRACTOR acknowledge and agree that the nature of the Services performed by CONTRACTOR under this Agreement is subject to specific statutory requirements of the Act. The parties agree to fully comply with the applicable laws and regulations.

18.5 Ownership of Records. Specialized methodology, formulae, software programs of CONTRACTOR and other intellectual processes which have been specifically designed and developed by CONTRACTOR and which were not funded by or assisted in the development by COMMISSION or its agents which shall be deemed proprietary in nature and shall be and remain the proprietary property of CONTRACTOR. All other documents, information, software, and intellectual property and records, including without limitation, the originals of all drawings, specifications, reports, records, data, surveys, documents and other materials, whether in hard copy or electronic form, which are prepared by CONTRACTOR, its employees, Subcontractors and agents in the performance of this Agreement, are shall be and remain the property of COMMISSION and shall be delivered to ADMINISTRATOR, as appropriate, upon the termination of this Agreement or upon the earlier request of ADMINISTRATOR. CONTRACTOR shall have no right for further grants, additional employment or employees, or additional compensation of whatever kind or nature as a result of the exercise by COMMISSION of its full rights of ownership of the documents and materials under this Agreement. CONTRACTOR may retain copies of the documents and materials for its own use, , but shall not enter into any contract or license for use or for payment of the documents. CONTRACTOR shall cause each Subcontractor, if any, to assign to COMMISSION any documents or materials prepared by it, and in the event CONTRACTOR fails to secure the assignment, CONTRACTOR shall indemnify COMMISSION for all damages suffered by the failure to obtain the assignment. COMMISSION agrees that, if necessary, it will undertake reasonable and appropriate steps to maintain the proprietary nature of CONTRACTOR's proprietary property, except as may be required by applicable laws.

18.6 Inspection and Access to Records. ADMINISTRATOR and any authorized COMMISSION representatives, any authorized representatives of the State of California, and/or First 5 California shall have access to CONTRACTOR's records for the purpose of monitoring performance and provision of the Services pursuant to this Agreement. CONTRACTOR shall make available its records within the borders of Orange County within ten (10) days after receipt of written demand by ADMINISTRATOR. In the event CONTRACTOR does not make available its records within the borders of Orange County, CONTRACTOR agrees to pay all necessary and reasonable direct and indirect expenses incurred by COMMISSION or COMMISSION's designee(s) necessary to obtain CONTRACTOR's records.

19. [Reserved]

20. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS. Except as limited by Exhibit C, Software License Agreement, to the extent any intellectual property, tangible or intangible, is developed, created, or modified with the monies provided by COMMISSION under this Agreement, or is otherwise separately funded by COMMISSION under other projects, programs, grants, or agreements and utilized by CONTRACTOR under this Agreement, COMMISSION does

and shall own all right, title and interest (including patent rights, copyrights, trade secret rights, and other intellectual property rights throughout the world) relating to any and all the inventions (whether or not patentable), works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by CONTRACTOR pursuant to the scope of Services provided by CONTRACTOR to COMMISSION under this Agreement (collectively the "Inventions"). CONTRACTOR agrees it shall promptly disclose all Inventions to COMMISSION. CONTRACTOR agrees to make all assignments and execute the legal documents necessary to accomplish the ownership and control for the benefit of COMMISSION. CONTRACTOR shall further assist COMMISSION, at COMMISSION's expense, to further evidence, record, and perfect the assignments and documentation, and to perfect, obtain, maintain, enforce, and defend any rights relating to the Inventions. CONTRACTOR irrevocably designates and appoints COMMISSION as its agent to lawfully perfect ownership and control of the Inventions (and if legally required for force and effect in order to perfect the ownership and control of the Inventions as its attorney-in-fact). As agent, COMMISSION may act for and on CONTRACTOR's behalf to execute and file any document and to do all other lawfully permitted and required acts to effect the ownership and control of the Inventions. If CONTRACTOR uses, provides, or discloses any of the Inventions when acting within the scope of CONTRACTOR's performance of Services or otherwise on behalf of COMMISSION, COMMISSION will have and CONTRACTOR grants COMMISSION a perpetual, irrevocable, worldwide royalty-free, non-exclusive, sublicensable right and license to exercise all rights to the Inventions. In the event of any conflict between this Paragraph 20 and the Software License Agreement, the Software License Agreement shall control.

21. COPYRIGHT ACCESS. COMMISSION, the County of Orange, and the State of California shall have a royalty-free, nonexclusive, and irrevocable license to publish, translate, or use now and continuing in the future, all material and work product (both tangible and intangible), if any, developed under this Agreement including those materials covered by copyright.

22. NOTICES.

22.1 Method and Form of Notice. Unless otherwise specified, all formal notices, invoices, claims, correspondence, or reports shall be addressed as follows:

COMMISSION: CHILDREN AND FAMILIES COMMISSION OF
ORANGE COUNTY
Director of Contracts Administration
17320 Redhill, Suite 200
Irvine, CA 92614

CONTRACTOR: See Exhibit A

All notices shall be deemed effective when in writing and personally delivered or deposited in the United States mail, express, priority, or first class, postage prepaid and addressed as above. Any notices addressed in any other fashion shall be deemed not given. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to change the addresses to which notices are sent.

22.2 Advisory Notices Required. Notwithstanding the provisions of this Agreement relating to Claims, CONTRACTOR shall notify COMMISSION, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature that may expose COMMISSION to liability. These occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COMMISSION property in possession of CONTRACTOR.

23. RIGHTS OF TERMINATION.

23.1 Termination Without Cause by COMMISSION Prior to Expiration of Term.

This Subparagraph 23.1 shall govern termination of this Agreement by COMMISSION without cause. Termination for cause shall be governed by Subparagraph 23.2 and the default provisions of this Agreement.

23.1.1 COMMISSION reserves the right to terminate this Agreement effective each anniversary of the Effective Date, without cause, upon sixty (60) days' written notice to CONTRACTOR. Upon receipt of a notice of termination without cause, CONTRACTOR shall cease performance under this Agreement on such anniversary, including all Services, except the Services that may be specifically approved and delineated by ADMINISTRATOR. CONTRACTOR shall be entitled to compensation for that part of the Services, if any, rendered prior to receipt of the notice of termination and for the part of the Services, if any, authorized by ADMINISTRATOR after the notice in accordance with the Project Budget, Exhibit B, or the other arrangement for compensation as may be approved by the ADMINISTRATOR in writing.

23.2 Termination for Cause Due to Default of CONTRACTOR. COMMISSION reserves the express right to terminate this Agreement for cause due to the default (as defined in Paragraph 24) by CONTRACTOR in its performance obligations under this Agreement. COMMISSION may in any notice of default advise CONTRACTOR it also intends to terminate the Agreement for cause. The notice of default from COMMISSION shall advise CONTRACTOR if COMMISSION intends to elect to terminate the Agreement and in this event CONTRACTOR shall immediately cease performance and provision of Services as of the date the notice of default is received or deemed received, whichever is earlier. In the event of termination, COMMISSION may, but is not required, to take over the work and prosecute the same to completion by contract or otherwise. Also, in the event of termination for cause, CONTRACTOR shall be liable to the extent that the total cost for completion of the Services required by this Agreement exceeds the compensation stipulated in this Agreement (provided that COMMISSION shall use reasonable efforts to mitigate damages), and COMMISSION expressly reserves the right to withhold any outstanding payments to CONTRACTOR for the purpose of set off or partial payment of the amounts owed COMMISSION as previously set forth in this Agreement.

24. DEFAULT.

24.1 Default by CONTRACTOR. Failure by CONTRACTOR to perform and/or comply with any provision, covenant, or condition of this Agreement shall be a default of this Agreement. In the event of default ADMINISTRATOR, in his/her sole discretion, may avail on behalf of COMMISSION (or COMMISSION may avail itself) of any remedies available at law, in equity, or otherwise specified in this Agreement (including immediate termination for cause as set forth in Subparagraph 23.2 above) and may elect any of the following:

24.1.1 Afford CONTRACTOR a time period of fifteen (15) days from the date notice is mailed to cure the default, or to commence to cure the breach and diligently pursue to completion the cure of the breach within thirty (30) days of date notice is mailed; and/or

24.1.2 Discontinue payment and eligibility for payment to CONTRACTOR for and during the period in which CONTRACTOR is in breach, which payment may not be entitled to later recovery; and/or

24.1.3 Offset against any funds invoiced by CONTRACTOR but yet unpaid by COMMISSION those monies disallowed pursuant to the above offset authority; and/or

24.1.4 Withhold from any monies payable to CONTRACTOR sufficient funds to compensate COMMISSION for any losses, costs, liabilities or damages it reasonably believes were suffered by or have been incurred by COMMISSION due to the default of CONTRACTOR in the performance of the Services required by this Agreement.

25. REVERSION OF ASSETS.

25.1 Unencumbered or Unexpended Funds. Upon the termination or expiration of the term of this Agreement, CONTRACTOR shall transfer to COMMISSION any unexpended and unencumbered COMMISSION funds on hand at the time of the termination or expiration and any accounts receivable attributable to the use of subject funds.

26. COUNTERPARTS. This Agreement may be executed in several counterparts, all of which shall constitute but one and the same instrument. Faxed and/or electronically scanned signatures shall have the same force and effect as an original signature.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS, COMMISSION and CONTRACTOR have executed this Agreement in the County of Orange, State of California.

**CHILDREN AND FAMILIES COMMISSION
OF ORANGE COUNTY**, a public body and legal public entity

Dated: _____ By: _____
Chair

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF COMMISSION

By: _____
DARLENE J. BLOOM
Clerk of COMMISSION

Dated: _____

APPROVED AS TO FORM:
STRADLING YOCCA CARLSON & RAUTH

By: _____
E. Kurt Yeager, Commission Special Counsel

[Signature block for CONTRACTOR on next page.]

[Signature block continued from previous page.]

CONTRACTOR

MOSAIC NETWORK, INC.

a _____ corporation

Dated: _____

By: _____
[Name]

Its: _____
[Title]

Dated: _____

By: _____
[Name]

Its: _____
[Title]

EXHIBIT A

PROJECT SUMMARY

_____ **CONTRACTOR**

Grant # _____

Project Name

Term: 5 Years (subject to extension)

1. FUNDING RECIPIENT

Mosaic Network, Inc.,
a _____ corporation
5266 Hollister Ave., Suite 123
Santa Barbara, CA 93111

Contact: Prashant Rajvaidya, President
prash@mosaic-network.com
Phone: (805) 692-0992
Fax: (805) 692-4082

COMMISSION Contact: Name/Title/Telephone Number/email address

Invoices/Documentation Contact: Name/Title/Telephone Number/email address

Signatories: Name/Board Title
Name/Board Title

2. BACKGROUND

As appropriate

3. PURPOSE AND SCOPE OF WORK

The purpose of this Agreement is to provide services for development, implementation and operation of a Performance Outcome Management System.

CONTRACTOR shall provide Services described in Exhibit A to achieve the outcomes described in the Work Plan, Exhibit A-1, within the funding limitations of the Project Budget, Exhibit B. COMMISSION shall enter into that certain Software License Agreement set forth as Exhibit C prior to CONTRACTOR's commencement of Services and shall require COMMISSION clients to enter into the Terms of Use Agreement concurrently with use by such clients. [DISCUSS]

4. ATTACHMENTS TO EXHIBIT B

A. [Staffing] [NOT APPLICABLE]

B. [Direct Project Expenses] [NOT APPLICABLE]

EXHIBIT A

Page A-1

- C. Subcontractors List
- D. Location of Services to be Provided
- E. [Indirect Project Expenses] [NOT APPLICABLE]

5. WAIVERS/AMENDMENTS TO AGREEMENT

None. [as applicable, list approved waiver(s)]

6. PROGRAM FEES

6.1 The parties agree that the following guidelines apply in the event fees of any amount are charged by CONTRACTOR to COMMISSION's target population of Orange County's children 0-5 and their families (program participants) for any service(s) provided under this Agreement.

6.1.1 CONTRACTOR shall not charge fees to COMMISSION's program participants prior to obtaining ADMINISTRATOR's acknowledgement in writing.

6.1.2 CONTRACTOR shall advise each COMMISSION program participant that fees may be charged and shall notify the program participant of any such fees prior to rendering services.

6.1.3 CONTRACTOR shall advise each COMMISSION program participant that all fees will be waived if the participant indicates an inability to pay and CONTRACTOR shall waive all fees if the program participant is unable to pay.

6.1.4 CONTRACTOR shall not deny services to any COMMISSION program participant for any reason, including program participant's inability to pay for services.

6.1.5 A full accounting of all fees charged and collected shall be documented by CONTRACTOR and shall be provided to ADMINISTRATOR upon request. At no time is CONTRACTOR permitted to collect fees for any purpose other than to continually provide services identified in this Agreement.

6.1.6 All fees collected shall be fully accounted for and included in CONTRACTOR's Fiscal Audit as described in Paragraph 15.1 of this Agreement.

EXHIBIT A-1

WORK PLAN

(SCOPE OF SERVICE)

CONTRACTOR shall, under the terms and conditions of this Agreement provide CLIENT with (A) limited and non-exclusive license to use CONTRACTOR's proprietary information management software program called Grant Evaluation and Management Solution ("GEMS System") in accordance with the terms of the accompanying Software License Agreement for certain GEMS System functionalities specified in the accompanying Software License Agreement, (B) hosting of the server necessary to run GEMS System in accordance with the terms of the accompanying Software License Agreement, (C) training, software support, and training documentation as described in this Exhibit A, (D) customization of GEMS System as described in this Exhibit A-1. The GEMS System shall have the features and functionality described in Exhibit A-2 attached hereto and Exhibit A to the Software License Agreement and incorporated by reference herein. [DISCUSS]

1. GEMS Training Workshops and Training Documentation

CONTRACTOR shall, under the terms and conditions of this agreement, at the time of full-scale system rollout, as specified in Project Plan in this Exhibit A, provide up to [_____] training workshops for authorized GEMS System users, as specified in the accompanying Software License Agreement, in accordance with the following specifications:

- A. The scope for each training workshops will be mutually agreed upon by CONTRACTOR and CLIENT prior to the training.
- B. Each training session will be two (2) four (4) hour workshops during the course of a day and shall be scheduled at the mutual agreement of CLIENT and CONTRACTOR.
- C. CLIENT shall select the site(s) for the training workshops and shall be solely responsible for all costs for equipment and premises used for training sessions.
- D. CONTRACTOR will conduct the trainings.
- E. CONTRACTOR will provide training documentation to the training attendees.

2. Software Support

CONTRACTOR shall, under the terms and conditions of this Agreement provide software support to authorized GEMS System users, as specified in the accompanying Software License Agreement, troubleshoot GEMS System problems in accordance with the following specifications:

- A. Authorized GEMS System users, as specified in the accompanying Software License Agreement, needing software support (the "Requestor") will submit support requests online through CONTRACTORS's online support incident tracking system.
- B. Depending on the nature of the support request submitted online, CONTRACTOR will provide software support to the Requestor via three modes of communication: (1) telephone; (2) e-mail; and (3) remote desktop technology. Requestor will be solely responsible for all telephone, Internet and other communication charges that

EXHIBIT A-1

Requestor incurs. In case of remote support using the remote desktop technology, Requestor will be solely responsible to ensure that Requestor’s network does not block access for use of such technology by CONTRACTOR.

3. Project Plan

CONTRACTOR shall, under the terms and conditions of this agreement and under the direction of the Director of CLIENT, or designee, configure and install GEMS System for use by the officers, employees, agents and contractors of CLIENT and officers, employees, agents and contractors of programs receiving direct grants through CLIENT in accordance with the following specifications:

Tasks or Milestone	CONTRACTOR'S Deliverable	Due Date for CONTRACTOR's Deliverable	Work Required by CLIENT Following Receipt of CONTRACTOR's Deliverables to <u>Complete the Task/Milestone</u>
<p>A.1. Collect preliminary project requirements for the initial GEMS deployment:</p> <ul style="list-style-type: none"> - Assess data structure of existing CLIENT's database systems. - Assess data capacity and expectations from CLIENT Grantees. - Assess client/program demographic, process and outcome data requirements. - Assess reporting requirements. 	<p>A. Document templates to CLIENT staff.</p> <p>B. Walk through with CLIENT staff and ongoing assistance to complete the task.</p>	<p>Document templates and list of requirement documents due one (1) week from the execution of this Agreement in electronic format.</p>	<p>Provide preliminary requirements in accordance with the document templates provided by CONTRACTOR.</p>
<p>A.2. Develop Functional Specifications:</p> <ul style="list-style-type: none"> - Finalize initial GEMS configuration specifications. - Finalize Report formats. - Finalize GEMS pilot, training, rollout plan. - Finalize list of GRANTEES, associated GEMS users and their "data focus". 	<p>A. Data Layout and Mock-Ups of System.</p> <p>B. Walk through with CLIENT staff and ongoing assistance to complete the task.</p>	<p>Functional specifications due in electronic format three (3) weeks from the completion of Task 1.</p>	<p>Review Functional Specifications and either "Accept" or provide feedback in accordance with <u>EXHIBIT A.1.</u></p>
<p>A.3. Begin System Rollout</p> <ul style="list-style-type: none"> - Conduct Pilot Release and training with the selected CLIENT staff and CLIENT grantee staff. - Upon completion ("Acceptance") of the Pilot Release, proceed with the rollout as per the rollout plan finalized in the Functional Specifications. 	<p>A. Configure GEMS System for release.</p> <p>B. Release GEMS system for use.</p> <p>C. Conduct training workshops.</p> <p>D. Setup initial set of user accounts on the server.</p> <p>E. Begin user support and system maintenance services.</p>	<p>Pilot Release due four (4) weeks from the completion ("Acceptance") of Task 2.</p>	<p>Review Pilot Release and either "Accept" or provide feedback in accordance with <u>EXHIBIT A.1.</u></p>

EXHIBIT A.1

ACCEPTANCE FORM

Task (cut and paste from **Exhibit A**):

_____(the "Task").

MOSAIC NETWORK, INC., a California corporation ("**Mosaic**"), declares that it has completed the Task and requests that CLIENT, within two weeks from receipt of this form, either (i) agree by checking the appropriate box below, counter-signing and delivering this form to Mosaic, or (ii) notify Mosaic of any material non-compliance of Mosaic's alleged completion of such Task as compared with the specifications listed on **Exhibit A**, as the case may be, by checking the appropriate box below, describing such non-compliance in the space provided, counter-signing, and delivering this form to Mosaic.

CLIENT:

- agrees that Mosaic has completed the Task; or
- notifies Mosaic of the following-described material non-compliance by Mosaic in the completion of such Task as compared with the specifications listed on Exhibit A, as the case may be (attach additional sheets if necessary):

MOSAIC NETWORK, INC.	CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT B

PROJECT BUDGET

Project Budget shall provide for annual payment as set forth below. All costs are “all inclusive” and cover all the products and services provided under the Agreement. To summarize the offerings contracted, the costs cover: (1) costs for intensive set up services administered by in house technical, evaluation, training, and project management staff; (2) GEMS license, hosting and maintenance fees for use and operation of POMS; and (3) on going technical assistance and user support fees.

The total cost for the proposed solution is estimated not to exceed **\$941,750.00** over five years. Following is the cost breakdown for each year:

Year One: \$215,750.00 (includes one-time costs of \$125,000.00 for setup & configuration).
Year Two: \$181,500.00 (includes user support, hosting, and maintenance).
Year Three: \$181,500.00 (includes user support, hosting, and maintenance).
Year Four: \$181,500.00 (includes user support, hosting, and maintenance).
Year Five: \$181,500.00 (includes user support, hosting, and maintenance).
Total for Five Years: \$941,750.00 (all inclusive).

Following table provides further breakdown of these costs:

Item	Year 1	Year 2	Year 3	Year 4	Year 5	5 Yr. Total
GEMS User Licenses	\$48,750.00 (50% discount)	\$97,500.00	\$97,500.00	\$978,500.00	\$97,500.00	\$438,750.00
Server Hosting and Maintenance	\$42,000.00 (50% discount)	\$84,000.00	\$84,000.00	\$84,000.00	\$84,000.00	\$378,000.00
Integration (Setup) Services*	\$75,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00
System Configurations*	\$50,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50,000.00
Technical Assistance and User Support	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$215,750.00	\$181,500.00	\$181,500.00	\$181,500.00	\$181,500.00	\$941,750.00

* One-Time costs only applicable in the first year.

Separate budgets for each of 5 years is presented next.

Budget for Year One

Year one budget includes costs for setup and configuration services; fees for use and operation of POMS; and fees for technical assistance and user support.

Item	Year One
GEMS User Licenses	\$48,750.00
Server Hosting and Maintenance	\$42,000.00
Integration (Setup) Services*	\$75,000.00
System Configurations*	\$50,000.00
Technical Assistance and User Support	\$0.00
Total	\$215,750.00
* <i>One-Time costs only applicable in the first year.</i>	

One-Time Setup Costs: One-time setup cost for the proposed solution is estimated to be **\$125,000.00**. This cost includes the following products and services:

1. *Preparation and Research:* Collaboration with CFCOC staff and evaluators by Mosaic’s *Project Director for Technology, Project Director for Integration Services,* and the *Project Manager* to thoroughly understand CFCOC’s specific POMS needs.
2. *System Configurations:* Based on the results from the preparation and research phase, Mosaic’s *Project Director for Technology,* and the *Project Manager* will work with Mosaic’s in-house technical team to configure GEMS system to meet specific needs of CFCOC as well as the needs of different programs. This also includes *Hosting Setup*—setting up a state of the art, secured, robust and reliable server hosting for CFCOC’s POMS.
3. *Contract, Evaluation and Outcomes Mapping:* Collaboration with CFCOC staff and evaluators by Mosaic’s *Project Director for Integration Services,* and the *Project Manager* to pre-load CFCOC’s strategic plan, evaluation logic, outcomes and milestones in POMS.
4. *CFCOC and Evaluation Team Trainings:* Up to five four-hour hands-on training workshops by Mosaic’s *Project Director for Integration Services* designed specifically for CFCOC staff and evaluation team to ensure they are proficient with GEMS functionality.
5. *Program Group Training Workshops:* Up to ten four-hour hands-on training workshops by Mosaic’s *Project Manager* and *Technical Assistance and User Support Supervisor* specifically designed to provide in-depth instructions on the GEMS software and reporting capabilities to funded programs.
6. *GEMS Documentation:* Effective and comprehensive online documentation in the form of User Manuals, FAQs, Quick Start Guides and video trainings customized for the CFCOC system.

One-Time Setup Costs, Note 1: Hourly rate of services for Mosaic Network, Inc. team ranges from \$125.00 to \$225.00, depending on the type of expertise required. Cost estimates in this proposal, however, do not strictly rely on hourly rates. Instead, we are proposing costs at a *flat rate* for all the setup services, which is based on time estimates at a deeply discounted, “*bulk*”,

EXHIBIT B

hourly rate. The goal is to ensure that CFCOC can optimally use Mosaic's resources in a worry free manner.

One-Time Setup Costs, Note 2: Please refer to **Section 7** (*Integration Services and System Configurations*) of the Scope of Services part of the proposal for details on each of the products and services listed above.

One-Time Setup Costs, Note 3: Please refer to **Part 10** (*Description of qualifications and experience of key project personnel*) of the Vendor Information part of proposal for bios and roles of Mosaic's Project Personnel listed here.

On Going Costs (for the First Year): Ongoing annual cost for the proposed solution, starting the first year is estimated to be **\$90,750.00**. This cost includes the following products and services, **coupled with a 50% discount for the first year only:**

1. *Licenses:* Yearly license for the use of the customized version of GEMS, to meet CFCOC's specific POMS needs including the optional components, by up to 250 users at a discounted rate (**\$390.00**/user, after a **60%** discount on the original yearly GEMS license cost of \$975.00/user).
2. *Hosting:* State of the art server hosting that is secured, robust and reliable (high up-time) including ongoing maintenance of the system.
3. *Technical Assistance and User Support:* Ongoing software troubleshooting support via phone and e-mail as well as remote-desktop based assistance for all GEMS users. Please refer to **Section 8** (*Ongoing Technical Assistance and User support*) of the Scope of Services part of the proposal for details.

Budget for Year Two

Year two budget includes costs for setup and configuration services; fees for use and operation of POMS; and fees for technical assistance and user support.

Item	Year Two
GEMS User Licenses	\$97,500.00
Server Hosting and Maintenance	\$84,000.00
Integration (Setup) Services*	\$0.00
System Configurations*	\$0.00
Technical Assistance and User Support	\$0.00
Total	\$181,500.00
<i>* One-Time costs only applicable in the first year.</i>	

On Going Costs (for the Second Year): Ongoing second year cost for the proposed solution is estimated to be **\$181,500,00**. This cost includes the following products and services:

1. *Licenses:* Yearly license for the use of the customized version of GEMS, to meet CFCOC's specific POMS needs including the optional components, by up to 250 users at a discounted rate (**\$390.00**/user, after a **60%** discount on the original yearly GEMS license cost of \$975.00/user).
2. *Hosting:* State of the art server hosting that is secured, robust and reliable (high up-time) including ongoing maintenance of the system.
3. *Technical Assistance and User Support:* Ongoing software troubleshooting support via phone and e-mail as well as remote-desktop based assistance for all GEMS users. Please refer to **Section 8** (*Ongoing Technical Assistance and User support*) of the Scope of Services part of the proposal for details.

Budget for Year Three

Year three budget includes costs for setup and configuration services; fees for use and operation of POMS; and fees for technical assistance and user support.

<i>Item</i>	<i>Year Three</i>
GEMS User Licenses	\$97,500.00
Server Hosting and Maintenance	\$84,000.00
Integration (Setup) Services*	\$0.00
System Configurations*	\$0.00
Technical Assistance and User Support	\$0.00
Total	\$181,500.00
<i>* One-Time costs only applicable in the first year.</i>	

On Going Costs (for the Third Year): Ongoing third year cost for the proposed solution is estimated to be **\$181,500.00**. This cost includes the following products and services:

1. *Licenses:* Yearly license for the use of the customized version of GEMS, to meet CFCOC's specific POMS needs including the optional components, by up to 250 users at a discounted rate (**\$390.00**/user, after a **60%** discount on the original yearly GEMS license cost of \$975.00/user).
2. *Hosting:* State of the art server hosting that is secured, robust and reliable (high up-time) including ongoing maintenance of the system.
3. *Technical Assistance and User Support:* Ongoing software troubleshooting support via phone and e-mail as well as remote-desktop based assistance for all GEMS users. Please refer to **Section 8** (*Ongoing Technical Assistance and User support*) of the Scope of Services part of the proposal for details.

Budget for Year Four

Year four budget includes costs for setup and configuration services; fees for use and operation of POMS; and fees for technical assistance and user support.

Item	Year Four
GEMS User Licenses	\$97,500.00
Server Hosting and Maintenance	\$84,000.00
Integration (Setup) Services*	\$0.00
System Configurations*	\$0.00
Technical Assistance and User Support	\$0.00
Total	\$181,500.00
<i>* One-Time costs only applicable in the first year.</i>	

On Going Costs (for the Forth Year): Ongoing forth year cost for the proposed solution is estimated to be **\$181,500.00**. This cost includes the following products and services:

1. *Licenses:* Yearly license for the use of the customized version of GEMS, to meet CFCOC's specific POMS needs including the optional components, by up to 250 users at a discounted rate (**\$390.00**/user, after a **60%** discount on the original yearly GEMS license cost of \$975.00/user).
2. *Hosting:* State of the art server hosting that is secured, robust and reliable (high up-time) including ongoing maintenance of the system.
3. *Technical Assistance and User Support:* Ongoing software troubleshooting support via phone and e-mail as well as remote-desktop based assistance for all GEMS users. Please refer to **Section 8** (*Ongoing Technical Assistance and User support*) of the Scope of Services part of the proposal for details.

Budget for Year Five

Year five budget includes costs for setup and configuration services; fees for use and operation of POMS; and fees for technical assistance and user support.

Item	Year Five
GEMS User Licenses	\$97,500.00
Server Hosting and Maintenance	\$84,000.00
Integration (Setup) Services*	\$0.00
System Configurations*	\$0.00
Technical Assistance and User Support	\$0.00
Total	\$181,500.00
<i>* One-Time costs only applicable in the first year.</i>	

On Going Costs (for the Fifth Year): Ongoing fifth year cost for the proposed solution is estimated to be **\$181,500.00**. This cost includes the following products and services:

1. *Licenses:* Yearly license for the use of the customized version of GEMS, to meet CFCOC's specific POMS needs including the optional components, by up to 250 users at a discounted rate (**\$390.00**/user, after a **60%** discount on the original yearly GEMS license cost of \$975.00/user).
2. *Hosting:* State of the art server hosting that is secured, robust and reliable (high up-time) including ongoing maintenance of the system.
3. *Technical Assistance and User Support:* Ongoing software troubleshooting support via phone and e-mail as well as remote-desktop based assistance for all GEMS users. Please refer to **Section 8** (*Ongoing Technical Assistance and User support*) of the Scope of Services part of the proposal for details.

**Attachment 1 to Exhibit B
(Not Applicable – Do Not Complete)**

A. STAFFING TABLE		
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	FTE Year 1	FTE Year 2	Estimated Annualized Salaries & Benefits	
Position Title:			\$	
Minimum Qualifications:(Include education, licenses, and experience as applicable)				
Job Duties: Provide services as described in subparagraphs _____, _____, _____ and _____ of Exhibit A to this Agreement.				
Position Title:			\$	
Minimum Qualifications:(Include education, licenses, and experience as applicable)				
Job Duties: Provide services as described in subparagraphs _____, _____, _____ and _____ of Exhibit A to this Agreement.				
Position Title:			\$	
Minimum Qualifications:(Include education, licenses, and experience as applicable)				
Job Duties: Provide services as described in subparagraphs _____, _____, _____ and _____ of Exhibit A to this Agreement.				

Summary Table of Staffing Costs

	Year 1	Year 2	Year 3	Year 4	4 Year TOTAL
	\$	\$	\$	\$	

Attachment 2 to Exhibit B
(Not Applicable – Do Not Complete)

B. DIRECT PROJECT EXPENSES TABLE

Expense Type	Year 1	Year 2	1-2 sentence narrative description of expenses.
Category			Annual cost for
Category			Annual cost for
Category			Annual cost for
Category			Annual cost for
Category			Annual cost for
Category			Annual cost for
Category			Annual cost for

Total Direct Project Expenses		
--------------------------------------	--	--

**Attachment 5 to Exhibit B
(Not Applicable – Do Not Complete)**

E. INDIRECT PROJECT EXPENSES TABLE				
Definition: General management costs consist of administrative activities necessary for the general operation of the agency. Costs incurred for a common or joint objective: Services of the accounting staff, cost of utilities, local telephone service and communication infrastructure and salaries of personnel engaged in providing a broad range of departmental support activities.				
Indirect costs are to be prorated and specifically based on this Agreement only				
Example: Expense Type	Date	Date	Date	1-2 sentence narrative description of expenses.
Human resources, legal counsel				Annual Cost
Office space				Annual Cost
Utility costs: heating, lighting				Annual Cost
Insurance				Annual Cost
Telecommunications and Infrastructure				Annual Cost
Building maintenance, custodial services				Annual Cost
Security services				Annual Cost

Total Indirect Project Expenses	\$	\$	\$
---------------------------------	----	----	----

EXHIBIT C

SOFTWARE LICENSE AGREEMENT

This **SOFTWARE LICENSE AGREEMENT** (this “**Agreement**”) is between **MOSAIC NETWORK, INC.**, a California corporation (“**MOSAIC**”) and the **CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY**, a public body and legal public entity of the State of California (“**CLIENT**”), with regard to the following facts:

RECITALS

- A. MOSAIC has developed and is the owner of an integrated information management software program called Grant Evaluation and Management Solution (GEMS) and supporting documentation for use in the management of data related to activities of organizations that fund, support or implement social service related or community based projects, programs and initiatives (“**System**”).
- B. CLIENT is a public body and legal public entity of the State of California which is delegated authority to administer, formulate, fund and operate programs (“**PROGRAMS**”) within the boundaries of CLIENT REGION to serve children and families.
- C. CLIENT desires to obtain limited and non-exclusive license to use a limited set of System functionalities specified in this agreement for management of data related to the evaluation of certain activities of the PROGRAMS.
- D. MOSAIC desires to grant such a limited and non-exclusive license to CLIENT in accordance with the conditions and purposes of this Agreement.
- E. MOSAIC will, by a separate professional services agreement (the “**SERVICES AGREEMENT**”), provide ancillary services related to the System to CLIENT in accordance with the terms, conditions and purposes of the SERVICES AGREEMENT.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, and for other good and valuable consideration, MOSAIC and CLIENT intending to be legally bound, agree as follows:

AGREEMENT

- 1. **LICENSE**: MOSAIC represents that it is the owner of or otherwise has the rights to the System, and any customizations, amendments or modifications thereto, and that it has the right to grant and does grant a limited and non-exclusive license to CLIENT to use the System functionalities, as specified in **EXHIBIT A**, in accordance with the terms and conditions of this Agreement. The license granted under this Agreement shall extend to the use of the System for no more than Three Hundred Fifty (350) users in accordance with the Terms of Use Agreement, as specified in **EXHIBIT B**, authorized by CLIENT only from among employees and agents working for CLIENT or for PROGRAMS only for management of data related to and evaluation of activities that are funded by CLIENT and for no other use whatsoever (the “**User**” or “**Users**”). CLIENT is required to provide valid identifying and contact information for each User prior to such authorization. The foregoing

EXHIBIT C

notwithstanding, MOSAIC makes no representation or warranty with respect to intellectual property rights in any jurisdiction other than the United States of America. MOSAIC retains title to the System, including, without limitation, all copies and audiovisual aspects thereof and all rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights inherent therein and appurtenant thereto. CLIENT shall not, by virtue of this Agreement or otherwise, acquire any proprietary rights whatsoever in the System. MOSAIC represents that the System is the confidential, PROPRIETARY INFORMATION of MOSAIC and that it is the sole and exclusive property of MOSAIC. MOSAIC expressly reserves any right not expressly granted to CLIENT by this Agreement. No identifying marks, copyright or proprietary right notices may be deleted from any copy of the System provided to or made by CLIENT. CLIENT shall have non-exclusive ownership, along with MOSAIC, of any other deliverables concerning the System operations, customizations and maintenance including but not limited to reports, data definitions, data screens and other items used by the parties in completing this Agreement.

2. **SCOPE OF USE:** Except as otherwise provided in this Agreement, CLIENT or PROGRAMS or officers, employees, agents or contractors of CLIENT and PROGRAMS shall not sell, transfer, publish, disclose, display, or otherwise make available any portion of the System to others. CLIENT or PROGRAMS or officers, employees, agents or contractors of CLIENT and PROGRAMS shall not modify, revise, copy, download, translate, decompile, or create by reverse engineering or otherwise, the System source code, or adapt the System in any way or use it to create a derivative work. CLIENT shall use its reasonable best efforts to cooperate with and assist MOSAIC in identifying and preventing any unauthorized use, copying or disclosure of the System or any portion thereof or any of the algorithms or logic contained therein.
3. **SOFTWARE WARRANTIES:** MOSAIC expressly disclaims, and CLIENT expressly waives, all warranties, express or implied, included, without limitation, warranties of merchantability and fitness of the System for a particular purpose. MOSAIC does not warrant and specifically disclaims any representations that the operation of the System and/or its use will be uninterrupted or error free. MOSAIC will use its best efforts, as required by this Agreement, to correct any errors or defects identified by the parties to this Agreement. This warranty shall remain in full force and effect throughout the term of this Agreement.
4. **MOSAIC PROPRIETARY INFORMATION:** CLIENT acknowledges that, in the course of meeting its obligations under this Agreement, it will obtain information relating to the System and to MOSAIC that is of a confidential and proprietary nature (“**MOSAIC PROPRIETARY INFORMATION**”). Such MOSAIC PROPRIETARY INFORMATION includes, without limitation, trade secrets, know-how, inventions, techniques, algorithms, programs, documentation and data. For purposes of this Agreement, MOSAIC PROPRIETARY INFORMATION, other than the System that will be considered MOSAIC PROPRIETARY INFORMATION regardless of whether it is marked as such, shall be all information clearly marked as such by MOSAIC. CLIENT will at all times, both during the term of this Agreement and for a period of at least five (5) years after its termination, keep in confidence and trust all such MOSAIC PROPRIETARY INFORMATION, and will not use such MOSAIC PROPRIETARY INFORMATION other than as permitted under the terms of this Agreement, nor will CLIENT disclose any of such MOSAIC PROPRIETARY INFORMATION without the written consent of MOSAIC and pursuant to a standard

EXHIBIT C

Page C-2

PROPRIETARY INFORMATION agreement, unless it is required by law, specifically the California Public Records Act (Government Code § 6250 et seq.), to do so.

5. **OTHER LICENSES:** Notwithstanding any other provision of this Section 2, MOSAIC acknowledges that it uses or may in the future use certain computer software that it licenses from third parties. MOSAIC shall be solely responsible for paying any fees associated with the use of such third party software, and executing any agreements with respect to such other software as it relates to the terms and conditions of this Agreement.
6. **HOSTING:** MOSAIC will administer and operate an offsite server to host the GEMS Software, as defined in Exhibit A. The server will be maintained at a secure location of Mosaic's choice. MOSAIC reserves the right, if necessary, to subcontract with a reputable operator of an established server farm to provide such services.
7. **MAINTENANCE:** MOSAIC will provide software maintenance and management services to apply or install changes to GEMS in order to fix any defects, to improve its performance, to optimize server, and to improve the GEMS usability and applicability.
8. **TERM:** The term of this Agreement shall begin on [DATE] and shall be in effect through [DATE], unless terminated earlier in accordance with Section 11 of this Agreement.
9. **COMPENSATION:** The total amount of compensation to be paid to MOSAIC for the license to be provided pursuant to this contract (including any and all costs incurred by MOSAIC) shall equal the amount set forth in Exhibit C. MOSAIC shall request payment by submitting an invoice to CLIENT. CLIENT shall pay invoices received from MOSAIC according to the terms of this Agreement, including all terms and conditions contained in the attached Exhibits, within thirty (30) days of receipt of MOSAIC's invoice.
10. **TERMINATION:** This contract may be terminated by MOSAIC or CLIENT, for no cause, with a thirty (30) days written notice to the other party, as provided herein. CLIENT may immediately terminate the contract if CLIENT elects to abandon or postpone the project. In addition, it is mutually agreed and understood that the obligation of CLIENT is limited and contingent upon the availability of CLIENT trust funds for payment to MOSAIC; and that this contract may be immediately terminated by CLIENT if funds are no longer available. In the event CLIENT abandons or postpones the project, or terminates the project for lack of funds, then CLIENT shall make payment for all licenses provided by MOSAIC to the date of written notice of termination. Termination of the Professional Services Contract will automatically terminate this license agreement.
11. **ALTERATION AND/OR AMENDMENT:** No alteration or variation in the terms of this contract shall be valid unless made in writing and signed by both parties; and no oral understanding or agreement not incorporated herein by specific reference shall be binding on the parties. The terms contained in this contract shall represent the entire contract between the parties with respect to the services to be provided by CONTRACTOR, except for the terms of that certain SERVICES AGREEMENT executed by the parties as of the same date as this Agreement.

EXHIBIT C

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IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute this contract.

MOSAIC NETWORK, INC.

CHILDREN AND FAMILIES COMMISSION
OF ORANGE COUNTY

By: _____
Name, Title

By: _____
Name, Title

Date: _____

Date: _____

EXHIBIT A

THE SOFTWARE

[TO BE REVIEWED/EXPANDED TO INCLUDE SECURITY REQUIREMENTS OF RFP/OTHER – SEE ALSO EXHIBIT A-1]

Grant Evaluation and Management Solution (“GEMS”) is an Internet-based integrated information management software suite developed and owned by Mosaic Network, Inc. GEMS implemented for CLIENT under the terms and conditions of this Agreement will allow authorized Users to manage data related to the evaluation of certain activities funded by CLIENT. Specifically, following functionalities will be available:

Evaluation Profile Management: Functionalities for managing contract’s evaluation profile information that includes scope of work information as well as services, milestones and outcomes definition corresponding to each PROGRAM.

Survey Design and Reporting: Functionalities for designing surveys, tracking survey responses and specialized reporting for collected responses.

Program Activity Data Management: Functionalities for entering and managing program activity data including, but not limited to family, family member, child and provider demographics; services and outcomes for individual and aggregate clients.

Quarterly Reports, Milestone Reports and Report Templates: Functionalities for loading predefined report templates; data analysis; and aggregating data and generating Quarterly Reports and Milestone Reports for CLIENT as well as PROGRAMS.

Program Management: Functionalities to manage core information of PROGRAM contracts including, contact information, project information and personnel information.

Budget Management: Functionalities to manage core information PROGRAM budgets including, budgets, revisions, invoices and expense reports.

EXHIBIT B

TERMS OF USE AGREEMENT FOR CLIENT LICENSEES

The Terms of Use Agreement shall be in the form found in the Program, as the same shall be modified from time to time. As of the date of this Agreement, the Terms of Use Agreement reads as follows:

Terms of Use Agreement

THE FOLLOWING IS A LICENSE AGREEMENT RELATING TO THE ACCOMPANYING GEMS SOFTWARE SUITE. CAREFULLY READ ALL OF THE AGREEMENT'S TERMS AND CONDITIONS BEFORE PROCEEDING. IF YOU DO NOT ACCEPT SUCH TERMS AND CONDITIONS, AND INDICATE YOUR ACCEPTANCE BELOW, YOU WILL NOT BE PERMITTED TO USE GEMS.

Disclaimer: MOSAIC (the “**Company**”) is not responsible or in any way liable for any computer hardware or software malfunction which may occur as the result of your use of the GEMS Software Suite (the “**Program**”).

[Click Here] YES, I agree to the following provisions as a condition precedent to my possession and use of the Program.

[Click Here] NO, I do not agree to the following provisions. I understand that I will not be permitted to use the Program.

You represent that you are acting on behalf of your employer and are authorized to accept these terms and conditions on its behalf (such employer being hereinafter referred to as you). You agree that you have read and understand this Agreement. The Company grants to you a nontransferable and nonexclusive license to possess and use the Program in accordance with the terms and conditions of this Agreement. The license authorizes you to use the Program on the work stations located at your office sites, as well as on portable computers that are used by your employees, solely in furtherance of your evaluation of data related to the activities of programs funded by CLIENT (“**Program Activity Data**”). You agree that you are licensing the Program for its end use only and not for resale or redistribution. This license authorizes you to use the Program solely in accordance with this Agreement. You shall not sell, lease, assign, transfer, sublicense, disseminate, modify, translate, duplicate, reproduce or copy the Program (or permit any of the foregoing) or disclose the Program or any information pertaining thereto any other party without the prior written consent of the Company. You may not reverse assemble or reverse compile or otherwise attempt to create the source code from the Program.

You acknowledge that the Program, including the related documentation and any new releases, modifications and enhancements thereto, belongs to the Company, and that the Company retains all right, title and interest in and to the Program. You further acknowledge that the Program and information relating thereto constitute valuable trade secrets of the Company. You agree to comply with the terms and conditions of this Agreement and agree to treat the Program as the confidential and PROPRIETARY INFORMATION of the Company.

EXHIBIT B to EXHIBIT C

The Company does not guarantee service results or represent or warrant that the Program will be completely error free. THE PROGRAM IS PROVIDED BY THE COMPANY "AS IS." THE COMPANY HEREBY DISCLAIMS, AND YOU HEREBY EXPRESSLY WAIVE, ALL WARRANTIES OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY DOES NOT WARRANT AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS THAT THE PROGRAM WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE PROGRAM AND/OR ITS USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROGRAM, IF ANY, WILL BE CORRECTED. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE PROGRAM IS WITH YOU.

You shall be solely responsible for the supervision, management and control of your use of the Program and related products and documentation. You hereby indemnify and hold harmless the Company and its affiliates (the "**Indemnified Parties**") against any loss, liability, damages, costs or expenses suffered or incurred by the Indemnified Parties at any time as a result of any claim, action or proceeding arising out of or relating to your use, operation or implementation of the Program. For purposes of this Agreement, affiliate means any Company division or subsidiary or any other affiliated entity involved in the manufacture or wholesale distribution of Company products.

The Indemnified Parties shall not be responsible, and you shall have no recourse against the Indemnified Parties, for any loss, liability, damages, costs or expenses which may be suffered or incurred at any time by you as a result of your reliance upon or use of the Program, or as a result of any claim, action or proceeding against you arising out of or relating to the use of the Program, or as a result of your defense of any such claim, action or proceeding.

THE COMPANY SHALL NOT BE LIABLE FOR DAMAGES OF ANY KIND, INCLUDING GENERAL, DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, PUNITIVE AND CONSEQUENTIAL DAMAGES, RESULTING FROM OR ARISING OUT OF THIS AGREEMENT OR YOUR USE OF THE PROGRAM, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE AGGREGATE LIABILITY OF THE COMPANY FOR ANY REASON AND UPON ANY CAUSE OF ACTION OR CLAIM SHALL BE LIMITED TO THE AMOUNT OF LICENSE FEES PAID TO THE COMPANY BY YOU HEREUNDER FOR THE SPECIFIC PORTION OF THE PROGRAM GIVING RISE TO SUCH CAUSE OF ACTION OR CLAIM. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS.

If the Company terminates the license of the CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY (CLIENT) and that termination is not disputed by CLIENT, the Company may immediately terminate this license upon notice to you, whereupon you shall immediately return any copies of the Program and related products and documentation, to MOSAIC, or at MOSAIC's sole discretion, erase any copies of the same from all storage media in its possession, and certify the completion of such destruction in writing to MOSAIC. Notwithstanding the foregoing, all provisions hereof relating to MOSAIC's proprietary rights, confidentiality, non-disclosure, non-solicitation and indemnification shall survive the termination or expiration of this Agreement.

EXHIBIT B to EXHIBIT C

This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed entirely within that State.

If executed in paper form:

MOSAIC NETWORK, INC.

CHILDREN AND FAMILIES COMMISSION
OF ORANGE COUNTY

By: _____
Name, Title

By: _____
Name, Title

Date: _____

Date: _____

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Children & Families
Commission of Orange County

2009 OCT 28 PM 1:03

CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

**Agenda Item No. 6
November 4, 2009 Meeting**

DATE: October 26, 2009

TO: Children and Families Commission of Orange County

FROM: Michael M. Ruane, Executive Director 

SUBJECT: Commission Performance Outcome Management System –Implementing Agreements with New Vendor

SUMMARY:

On October 7, 2009, your Commission approved the selection of Mosaic Network, Inc., (Mosaic) as its vendor to serve as its Performance Outcome Management Systems vendor. The system will collect, store and report service and outcome data from the over 200 grantees that provide services to children and families through Commission funding. The Commission authorized staff to begin negotiations with Mosaic to provide services. Included in this agenda item are the actions required to implement to new outcomes reporting system.

Start-Up Plan

Staff has been working with Mosaic to initiate the planning and implementation of the new system. We are working to ensure a smooth transition from the current system platform to the Mosaic GEMS with a target system roll-out date of January 1, 2010. The total immediate contract costs are to provide set up and testing services at a total cost not to exceed \$197,000 in the following three areas:

- One-time System Setup at a cost not to exceed \$125,000.
To include overall system design, development, implementation, and testing of the data collections and outcome reporting module as well as training and technical assistance for Commission staff and grantees.
- Care Coordination Module (CCM) at a cost not to exceed \$25,000.
To include overall system design, development, implementation, and testing of the CCM that provides Commission funded home visitation programs with an online case management system and also provides an automated process for submitting related Medical Targeted Case Management (TCM) billing required by the fiscal leveraging strategy supported by the Commission. CCM supports case management providers by tracking appointments, cases, and the services provided or planned for each interaction with a family. The information entered interfaces with the Commission's client level data in the "Core Data Outcomes Module" (CDOM).

- **Electronic Invoicing Module** at a cost not to exceed \$47,000.
To include overall system design, development, implementation, and testing of the Electronic Invoicing Module that provides on-line tracking of information such as funds awarded, total invoiced, invoices pending, and contract funds remaining. The module will also provide validation parameters to ensure invoice quality, which reduces the amount of time spent by grantees and Commission staff processing invoices. Reports that will be generated will assist the Commission and grantees with monitoring of invoice and payment histories.

The costs for these three components are consistent with Commission's budget parameters for the new system.

Ongoing Systems Support

Additionally, staff has reached substantial agreement with Mosaic for the 54 month (4 1/2 year) agreement for software licensing, product support and training, and application service maintenance. We anticipate that it will be modified standard Agreement and will address the full scope of services for the Commission and its grantees with automated, real time management tools for budget and fiscal management, contract monitoring/compliance, performance measurement, data collection, analytic tools and electronic invoicing that are compatible with the County of Orange Auditor Controller systems. The annualized cost of the software licensing, maintenance and product is \$181,500 and a total 54 month (4 1/2 year) cost of \$816,750. This array of service components represents a core requirement of the Commission's mission and is considered mission critical software.

PRIOR COMMISSION ACTIONS:

1. January 2009- Direct to staff to release the request for proposal
2. May 2009- Delay review of submissions
3. October 2009 - Select Mosaic Network, Inc. and direct Executive Director or designee and special Commission counsel to negotiate and develop a three year agreement with Mosaic Network, Inc. as the vendor for the Commission's Performance Management System

RECOMMENDED ACTIONS:

1. Adopt Resolution (Attachment 1) authorizing Executive Director or designee to prepare and negotiate PS-80 with Mosaic Network, Inc., in an amount not to exceed \$197,000 for the period October 1, 2009 through June 30, 2010 for Performance Outcomes Management System, and Electronic Invoicing and Care Coordination Modules set up and testing services.
2. Adopt Resolution (Attachment 2) authorizing Executive Director or Designee and Commission Counsel to prepare and negotiate FCI-POM-02 with Mosaic Network, Inc., in an amount not to exceed \$816,750 for the period January 1, 2010 through June 30, 2014 for Performance Management System, Electronic Invoicing and Care Coordination Module Services based on the modified standard agreement form as described in Attachment 3.

ATTACHMENTS:

1. Resolution for PS-80 with Mosaic Network, Inc., in an amount not to exceed \$197,000 for the period October 1, 2009 through June 30, 2010 for Performance Outcomes Management System, and Electronic Invoicing and Care Coordination Modules set up and testing services.
2. Resolution for FCI-POM-02 with Mosaic Network, Inc., in an amount not to exceed \$816,750 for the period January 1, 2010 through June 30, 2014 for Performance Management System, Electronic Invoicing and Care Coordination Module Services
3. Summary of changes to standard form agreement

Contact: Christina Altmayer

CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY

RESOLUTION NO. ___-09-C&FC

November 4, 2009

**A RESOLUTION OF THE CHILDREN AND FAMILIES
COMMISSION OF ORANGE COUNTY DIRECTING THE
EXECUTIVE DIRECTOR TO PREPARE AND NEGOTIATE
AGREEMENT NO. PS-80 WITH MOSAIC NETWORK, INC.; AND
MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH**

WHEREAS, in order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature adopted legislation set forth in the California Children and Families Act of 1998, Health and Safety Code Section 130100, *et seq.* (as amended, the “Act”) implementing the Children and Families First Initiative passed by the California electorate in November, 1998 and establishing the California Children and Families Commission and County Children and Families Commissions, including this Children and Families Commission of Orange County (“Commission”); and

WHEREAS, Commission adopted its Strategic Plan to define how funds authorized under the Act and allocated to the Commission should best be used to meet the critical needs of Orange County’s children prenatal to five years of age as codified in the Act; and

WHEREAS, the Executive Director and Commission Counsel have prepared a standard Master Agreement for Consultant/Professional Services (“Master Agreement”), which was approved by the Commission; and

WHEREAS, the Commission desires to authorize the Executive Director or designee to prepare and negotiate Agreement No. PS-80 with Mosaic Network, Inc. in an amount not to exceed \$197,000 for the term October 1, 2009 through June 30, 2010 for Performance Management System, and Electronic Invoicing and Care Coordination Modules set up and testing services as specified in the November 4, 2009 staff report for this Agenda Item; and

WHEREAS, Commission has reviewed the staff report relating to the Scope of Services to be provided and hereby finds and determines that the proposed Agreement is in furtherance of and consistent with the Commission’s Strategic Plan; and

NOW, THEREFORE BE IT RESOLVED BY THE COMMISSIONERS OF THE CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY AS FOLLOWS:

Section 1 Commission finds and determines the foregoing Recitals are true and correct and are a substantive part of this Resolution.

Section 2 Commission hereby authorizes the Executive Director, or designee, to prepare and negotiate the terms, conditions and final form of Agreement PS-80 with Mosaic Network, Inc., in an amount not to exceed \$197,000 for the term October 1, 2009 through June 30, 2010 for Performance Management System, and Electronic Invoicing and Care Coordination Modules set up

and testing services consistent with the November 4, 2009 staff report and scope of services referenced therein; and

Section 3 The form of Agreement PS-80 with Mosaic Network, Inc. shall be substantially similar to the form of the standard Master Agreement, subject to minor, non-substantive revisions as reviewed and approved by the Executive Director or designee. The approval by the Executive Director of the Agreement PS-80 shall be conclusively evidenced by the execution and delivery of the Amendment by the Commission Chair to the Commission Clerk.

Section 4 Commission hereby approves the Agreement No. PS-80 with Mosaic Network, Inc. for Performance Management System, and Electronic Invoicing and Care Coordination Modules set up and testing services as specified in the November 4, 2009 staff report for this Agenda Item.

Section 5 The Commission Chair and the Clerk of the Commission are hereby authorized to execute and attest, respectively, Agreement PS-80 on behalf of the Commission.

Section 6 A copy of the final Agreement PS-80 with Mosaic Network, Inc., when executed by the Commission Chair, or Executive Director, and attested by the Clerk of the Commission shall be appended hereto as a part of Exhibit A to this Resolution. Exhibit A is hereby fully incorporated as a part of this Resolution by this reference and made a part hereof. The final executed Amendment shall be placed on file in the office of the Clerk of the Commission.

Section 7 In addition to the authorization of Section 2 above, the Executive Director (or his designee) is hereby authorized, on behalf of the Commission, (i) to sign all documents necessary and appropriate to carry out and implement the Service Agreement, (ii) to cause the issuance of warrants, (iii) to administer the Commission's obligations, responsibilities, and duties to be performed under such agreement, and (iv) during the term thereof to provide waivers, administrative interpretations, and minor modifications of the provisions of such agreement in the furtherance thereof.

Section 8 The Clerk of the Commission shall certify to the adoption of this Resolution.

The foregoing resolution was passed and adopted by the following vote of the Children and Families Commission of Orange County on November 4, 2009 to wit:

AYES: Commissioners: _____

NOES: Commissioner(s): _____

EXCUSED: Commissioner(s): _____

ABSTAINED: Commissioner(s) _____

CHAIR

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Commission of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Commission and that the above and foregoing Resolution was duly and regularly adopted by the Children and Families Commission of Orange County.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

DARLENE J. BLOOM
Clerk of the Commission, Children and Families Commission of
Orange County, County of Orange, State of California

Resolution No: ___-09-C&FC

Agenda Date: November 4, 2009

Item No. ____



I certify that the foregoing is a true and correct copy of the Resolution adopted by the

DARLENE J. BLOOM, Clerk of the Commission

By: _____
Deputy

EXHIBIT A TO RESOLUTION OF COMMISSION

(Attach copy of final executed Agreement No. PS-80 with Mosaic Network, Inc.)

CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY

RESOLUTION NO. ___-09-C&FC

November 4, 2009

A RESOLUTION OF THE CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY DIRECTING THE EXECUTIVE DIRECTOR OR DESIGNEE, AND COMMISSION COUNSEL TO PREPARE AND NEGOTIATE AGREEMENT NO. FCI-POM-02 WITH MOSAIC NETWORK, INC.; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, in order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature adopted legislation set forth in the California Children and Families Act of 1998, Health and Safety Code Section 130100, *et seq.* (as amended, the "Act") implementing the Children and Families First Initiative passed by the California electorate in November, 1998 and establishing the California Children and Families Commission and County Children and Families Commissions, including this Children and Families Commission of Orange County ("Commission"); and

WHEREAS, Commission adopted its Strategic Plan to define how funds authorized under the Act and allocated to the Commission should best be used to meet the critical needs of Orange County's children prenatal to five years of age as codified in the Act; and

WHEREAS, Commission Special Counsel has prepared the attached Agreement FCI-POM-02 for the Performance Management System, Electronic Invoicing and Care Coordination Module Services described in the November 4, 2009 staff report for this Agenda Item; and

WHEREAS, the Commission desires to authorize the Executive Director or designee and Commission Counsel to prepare and negotiate Agreement No. FCI-POM-02 with Mosaic Network, Inc., in an amount not to exceed \$816,750 for the period January 1, 2010 through June 30, 2014 to provide Performance Management System, Electronic Invoicing and Care Coordination Module Services as specified in the November 4, 2009 staff report for this Agenda Item; and

WHEREAS, Commission has reviewed the staff report relating to the Scope of Services to be provided and hereby finds and determines that the proposed Agreement is in furtherance of and consistent with the Commission's Strategic Plan; and

NOW, THEREFORE BE IT RESOLVED BY THE COMMISSIONERS OF THE CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY AS FOLLOWS:

Section 1 Commission finds and determines the foregoing Recitals are true and correct and are a substantive part of this Resolution.

Section 2 Commission hereby authorizes the Executive Director or designee and Commission Counsel to prepare and negotiate the terms, conditions and final form of Agreement FCI-POM-02 with Mosaic Network, Inc., in an amount not to exceed \$816,750 for the period January 1, 2010 through June 30, 2014 to provide Performance Management System, Electronic

Invoicing and Care Coordination Module Services consistent with the November 4, 2009 staff report and scope of services referenced therein; and

Section 3 The final form of Agreement FCI-POM-02 with Mosaic Network, Inc. shall be substantially similar to the attached Agreement FCI-POM-02 as prepared by Commission Special Counsel, subject to minor, non-substantive revisions as reviewed and approved by the Executive Director or designee and Commission Counsel. The approval by the Executive Director of Agreement FCI-POM-02 shall be conclusively evidenced by the execution and delivery of the Agreement by the Commission Chair to the Commission Clerk.

Section 4 Commission hereby approves Agreement No. FCI-POM-02 with Mosaic Network, Inc. to provide Performance Management System, Electronic Invoicing and Care Coordination Module Services as specified in the November 4, 2009 staff report for this Agenda Item.

Section 5 The Commission Chair and the Clerk of the Commission are hereby authorized to execute and attest, respectively, Agreement FCI-POM-02 on behalf of the Commission.

Section 6 A copy of the final Agreement FCI-POM-02 with Mosaic Network, Inc., when executed by the Commission Chair and attested by the Clerk of the Commission shall be appended hereto as a part of Exhibit A to this Resolution. Exhibit A is hereby fully incorporated as a part of this Resolution by this reference and made a part hereof. The final executed Agreement shall be placed on file in the office of the Clerk of the Commission.

Section 7 In addition to the authorization of Section 2 above, the Executive Director (or his designee) is hereby authorized, on behalf of the Commission, (i) to sign all documents necessary and appropriate to carry out and implement the Service Agreement, (ii) to cause the issuance of warrants, (iii) to administer the Commission's obligations, responsibilities, and duties to be performed under such agreement, and (iv) during the term thereof to provide waivers, administrative interpretations, and minor modifications of the provisions of such agreement in the furtherance thereof.

Section 8 The Clerk of the Commission shall certify to the adoption of this Resolution.

The foregoing resolution was passed and adopted by the following vote of the Children and Families Commission of Orange County on November 4, 2009 to wit:

AYES: Commissioners: _____

NOES: Commissioner(s): _____

EXCUSED: Commissioner(s): _____

ABSTAINED: Commissioner(s) _____

CHAIR

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Commission of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Commission and that the above and foregoing Resolution was duly and regularly adopted by the Children and Families Commission of Orange County.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

DARLENE J. BLOOM
Clerk of the Commission, Children and Families Commission of
Orange County, County of Orange, State of California

Resolution No: ___-09-C&FC

Agenda Date: November 4, 2009

Item No. ____



I certify that the foregoing is a true and correct copy of the Resolution adopted by the

DARLENE J. BLOOM, Clerk of the Commission

By: _____
Deputy

EXHIBIT A TO RESOLUTION OF COMMISSION

(Attach copy of final executed Agreement No. FCI-POM-02 with Mosaic Network, Inc.)

Summary of Key Revisions from the Commission Grantee Boilerplate Grant Agreement

Modified Terms:	
Term	Original term of 54 months (4 1/2 years), renewable for two additional 2-year terms at a cost based on the Year 5 cost adjusted per annum.
Insurance	Comprehensive General Liability annual aggregate increased from \$2M to \$5M.
Compliance with Laws	HIPAA compliance added due to access to grantee client data
Rights of Termination	Termination without Cause – deleted: “Anytime upon 15 days’ notice” and replaced with: “Effective on each anniversary of the effective date up on 60 days’ notice.”
Added Terms:	
	Software License Agreement for GEMS
Deleted Terms:	
N/A (Not applicable to GEMS system)	Technical Requirements for PCs and Software
N/A	Real Property Disclosure and Reversion of Assets
N/A	End of Contract (Fiscal Year) Audits and Retention
N/A	Compensation – Indirect Cost Rate and Matching Funds
N/A	OCERS Data Reporting Requirements