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CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

Agenda Item No. 7
July 2, 2008 Meeting

DATE: June 18, 2008

TO: Children and Families Commission of Orange County

FROM: Michael M. Ruane, Executive Director

A handwritten signature in black ink, appearing to read "Michael M. Ruane".

SUBJECT: **Strategic Funding Plan and Related Budget Actions**

SUMMARY:

At the June Commission Annual Planning Session, your Commission developed a framework for safeguarding local Prop 10 funding as well as continuing progress to implement the Bridgespan study recommendations. A Strategic Funding Plan has been prepared at your Commission's request to incorporate the inter-related funding actions into a comprehensive plan reflecting immediate and short-term actions. Implementing actions have been separately agendized and will be considered individually, including approval of specific agreements with grantees.

This agenda item provides an overview of all related actions to achieve three primary objectives identified by your Commission at the June retreat:

- Objective 1: Protect local Prop 10 Funding for children and families
- Objective 2: Mitigate impacts of the State budget crisis on core health services and safety net systems of care
- Objective 3: Develop future funding strategies consistent with Bridgespan recommendations

Revisions to Commission Budget Policies:

The Strategic Funding Plan (Attachment 1.) will be presented at the July Commission meeting. Implementation of the Plan will be covered by subsequent action items on the July agenda. Two additional items require Commission approval at this time. The first is adoption of revised Policy & Procedure No. 4.2, Fund Balance Policy, (Attachment 2.) which has been updated to establish specific reserves at fund balance levels necessary to meet legal requirements and to fund future obligations. Second is the adoption of revised Policy & Procedure No. 4.3, Operating Budget Development and Amendment Policy, (Attachment 3.) which authorizes the full encumbrance of funds for multi-year contracts within the first fiscal year of an executed contract.

Establishment of Commission Finance Subcommittee to Oversee Implementation of Strategic Funding Plan

To implement the Strategic Funding Plan, it is also necessary that the Commission establish a formal Finance Subcommittee which could oversee implantation and to approve specific actions. A draft resolution has been prepared to establish the subcommittee. (Attachment 4)

The proposed resolution:

- Authorizes the subcommittee for a one-year period, to allow contractors to receive advance funding on the following conditions:
 - o An existing multi-year contract
 - o A history of successful performance
 - o Obtaining a performance bond
 - o Funding renewals consistent with Bridgespan recommendations
- Allows the subcommittee to authorize the Executive Director to revise Commission-approved Master Agreements to do the following:
 - o Agree to advance funding provisions substantially similar to the provisions set forth in Attachment 1 to the Resolution
 - o Revise contract language to ensure compliance with Bridgespan recommendations
 - o Revise contract termination provisions to limit the Commission's right to terminate to situations where there is cause (i.e., no at-will termination)
- To approve multi-year (up to 10 years) service agreements with organizations, including the Discovery Science Center and the Pretend City, similar in form to Commission-approved Master Agreements, or to the Buena Park Agreement on the following conditions:
 - o The specific project and parties have been identified by the Commission
 - o Funds have been budgeted and designated for those projects

Authorization to Take Legal Action

It is possible that the Legislature and/or other State officials may seek to balance the State budget by redirecting local Proposition 10 revenues before the next regularly scheduled Commission meeting. Commission Counsel has advised that such action would be unlawful (unless approved by the electorate.) Thus, in such an event, we are recommending that Commission Counsel be authorized to take any legal action deemed appropriate to protect Commission assets, upon consultation with Chair and Executive Director, subject to ratification by the commission at a subsequent regular or special meeting.

STRATEGIC PLAN & FISCAL SUMMARY:

The recommended Strategic Funding Plan implements funding strategies consistent with the Commission's Ten-Year Financial Plan.

RECOMMENDED ACTION:

1. Receive Recommended Strategic Funding Plan and approve recommendations (Attachment 1.)
2. Adopt revised Policy & Procedure No. 4.2, Fund Balance Policy, (Attachment 2.)
3. Adopt revised Policy & Procedure No. 4.3, Operating Budget Development and Amendment Policy, (Attachment 3.)

4. Adopt resolution (Attachment 4) establishing Commission Finance Subcommittee for approval of loans and multi-year service agreements.
5. Authorize Commission Counsel, following consultation with the Chair and the Executive Director, to initiate any legal action necessary and appropriate to protect Commission funds from redirection by the State. Any such action shall be subject to ratification by the Commission at its' next Regular Meeting or Special Meeting.

Attachments:

1. Recommended Strategic Funding Plan
2. Revised Policy & Procedure No. 4.2, Fund Balance Policy
3. Revised Policy & Procedure No. 4.3, Operating Budget Development and Amendment Policy
4. Draft resolution Establishing Finance Subcommittee

Contact: Christina Altmayer

Attachment 1

Children & Families
Commission of Orange County

July 2, 2008 Commission
Meeting
Strategic Funding Plan

July 2, 2008

Introduction

- Based on direction at the June Commission retreat, staff has developed a Strategic Funding Plan with three primary objectives:
 - Objective 1: Protect local Prop 10 Funding for children and families
 - Ensures that funding direction to children and families is secured for short and long-term
 - Restates FY 2008/09 Budget to reflect multi-year encumbrances
 - Accelerates implementation for capital and health related services
 - Objective 2: Mitigate impacts of the State budget crisis on core health services and safety net systems of care
 - Objective 3: Develop funding renewal strategies consistent with Bridgespan recommendations

Funding Strategy

Funding Strategy includes 3 levels of funding actions to implement objectives:

Tier 1: Increase encumbrances by \$21.3 mil to reflect multi-year commitments. Transition from Reserve for Contractual Obligation.

Tier 2: Develop multi-year agreements for Major Initiatives consistent with Ten Year Financial Plan \$ 55,4223,000. Encumber consistent with Tier 1 decreasing Unreserved balance to \$ 17,963,000.

Tier 3: Incorporate terms for potential service loans for Tier 2 agreements. Activated with approval of Subcommittee, contingent on development of service plan consistent with Bridgespan recommendations.

Current Fund Balance

CHILDREN & FAMILIES COMMISSION OF ORANGE COUNTY
SCHEDULE OF GOVERNMENTAL FUND BALANCE
FY 2007-2008 Year End Projection

	Actual 5/15/2008	Estimated 6/30/2008	Estimated 7/1/2008
Beginning Fund Balance (per 6/30/07 Audited Financial Statements)	\$ 151,474,018	\$ 151,474,018	\$ 149,599,086
Revenues	33,687,433	49,187,433	-
Expenditures	(33,452,366)	(51,062,366)	-
Ending Fund Balance	\$ 151,709,086	\$ 149,599,086	\$ 149,599,086

Ending Fund Balance Components

	Actual 5/15/2008	Estimated 6/30/2008	Estimated 7/1/2008
Committed Funds:			
Reserve for Encumbrances	\$ 11,488,724	\$ 2,788,724	\$ 49,209,119
Reserve for Contractual Obligations	59,205,812	59,205,812	21,322,887
Reserve for Capital Grants	5,000,000	5,000,000	5,000,000
Reserve for First 5 California Initiatives	8,690,731	8,690,731	4,421,996
Designation for Local Initiatives & Program Sustainability	67,323,818	73,913,818	69,645,083
Total Committed Funds	\$ 151,709,086	\$ 149,599,086	\$ 149,599,086
Uncommitted Funds:	\$ -	\$ -	\$ -

Tier 1: Strategy - Increases encumbrances to reflect multi-year obligations through revised policy and budget approval.

Tier 2 & 3 Strategies - Obligates funds consistent with Long-Term Financial Plan.

Level 1: Increase Encumbrances by \$21.3 Million to Reflect Multi-Year Agreements

- Request Commission approval of:
 - Restated FY 2008/09 Budget that reflects all current contract obligations as encumbrances within financial statements
 - Budget policy which directs staff to include the Commission's legal commitment of full contract amount as current year encumbrances.
 - Insures that Commission funds are available and committed to meet all current, multi-year contractual obligations
 - Annual budget presentation to segregate between current and future year obligations, but total is reflected in budget.

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Level 2: Develop Multi-year Agreements for Major Initiatives

- Consistent with Ten-Year Financial Plan, approve *three year agreements* with the following grantees for a term through FY 2010/2011. Total fiscal impact: \$ 37,204,000.

Grantee	Current Contract Expiration	Dollar Impact
Home-Aid	June 30, 2012	\$10,090,000
Capital Expansion Programs	N/A – Multiple Projects	\$10,000,000
Children's Dental Initiative	June 30, 2009	\$ 3,300,300
Community Clinics	June 30, 2009	\$ 3,881,700
Pediatric Health Services*	June 30, 2011	\$ 360,000
2-1-1	June 30, 2009	\$ 400,000
MOMS	December 31, 2008	\$ 1,700,000
Public Health Nursing (HCA)	June 30, 2009	\$ 3,849,500
School Readiness Nursing	June 30, 2010	\$ 3,622,000

*Previously approved by the Commission in March 2008

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Level 2: Develop Multi-year Agreements for Major Initiatives

- Consistent with Ten-Year Financial Plan, approved *two-year agreements* with the following grantees for a term through FY 2009/2010. Total fiscal impact: \$ 18,219,000.

Grantee	Current Contract Expiration	Dollar Impact
Bridges for Newborns	December 31, 2008	\$ 6,871,900
Project Connections	June 30, 2009	\$ 1,931,300
AAP	June 30, 2009	\$ 1,210,000
Children's Health Initiative	June 30, 2009	\$ 200,000
Local School Readiness	June 30, 2009	\$ 2,657,400
State/Local Partnership School Readiness*	June 30, 2010	\$ (522,200)
School Readiness Program Expansion	June 30, 2009	\$ 2,270,600
Early Literacy	June 30, 2009	\$ 3,600,000

*Previously approved by the Commission in March 2008

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Other Tier 2 Actions

- Approve Two-Year Term for all Agreements expiring before June 30, 2009
- Develop Multi-Year Agreements Associated with New Facilities and Capital Expansion Programs
 - Discovery Science Center
 - Pretend City
 - New Non-Profit Center

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Level 3: Develop Loan Program for Long-Term Services

- **Service Loan Term and Conditions**
 - Terms and Conditions will be reflected in updated agreements for major initiatives (Tier 2)
 - Provide for upfront payment in form of loan for grantee at recommendation of Executive Director, and with approval of designated Subcommittee of Commission
 - Eligibility for loan based on:
 - History of successful performance in meeting annual outcomes
 - Development of multi-year service plan consistent with Bridgespan recommendations and program assessment results
 - Acceptable loan security, in form of surety bond and/or trustee

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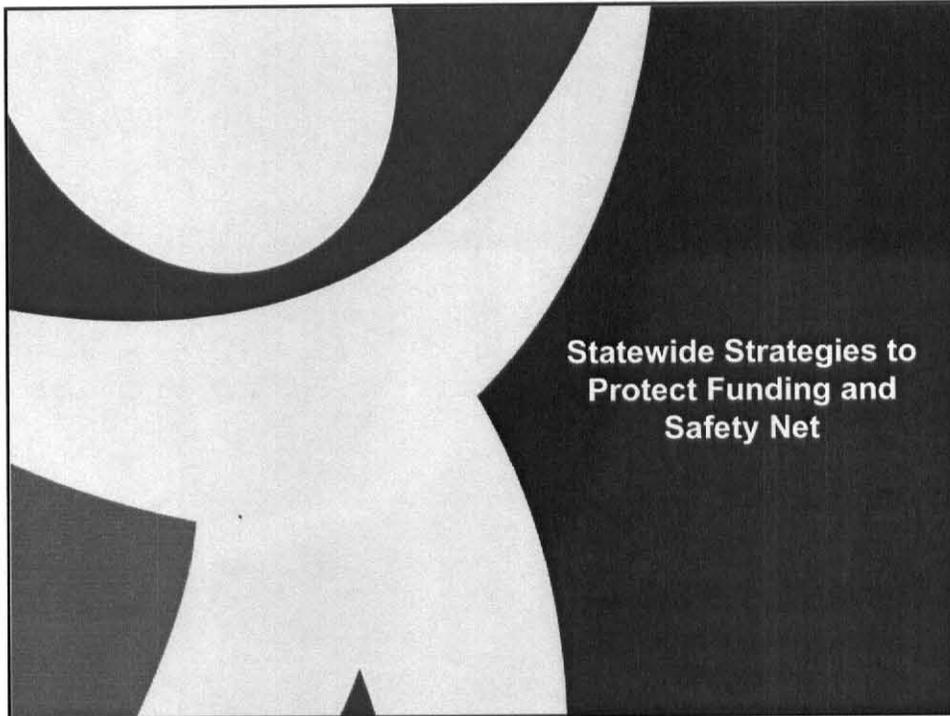


Future Strategy: Continued Expansion of Early Learning Investments

- **Future Prop 10 Revenue will be increasingly dedicated to expanding Early Learning Investments:**
 - FY 2008/09 will serve as planning year to prioritize investment strategies and target communities
 - Consistent with Commission direction, focus on:
 - Increased early literacy investments
 - Focused investments in high risk communities
 - Address physical and developmental gaps which impact positive developmental growth (speech and language and literacy development)
 - New service expansions targeted for July 1, 2009 effective date

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Statewide Strategies to Protect Funding and Safety Net

- County Commissions are developing pro-active, collective strategies to mitigate impacts on core health services and safety net system of care from the State budget crisis.
- Consistent with Prop 10 mandates, investments would be:
 - Directed at young children
 - Focus on expansion and quality improvements (not supplant)
 - Build on proven Prop 10 investments
 - Address community needs

Two Tiered Statewide Plan

Statewide Strategy

Establish statewide network for Children's Oral Health

Local Options

Larger counties to participate in one or more local options:

- Protect Health Care Safety Net for Children
- Strengthen Early Intervention Programs
- Expand Federal Fund Leveraging for Critical Health Services

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Statewide Strategy: Oral Health Network

Funding Strategy:

- Create a statewide network for oral health service expansion in partnership with California Dental Association and other statewide organizations
- Link with Prop 10 and other community investments focused on oral health prevention, education and treatment. Ensure providers understand and access community resources. Provide resources to support statewide education and outreach programs.

Mitigates impact of.....

- Reductions in Medi-cal funding - Decreased resources available to support Denti-Cal providers and other community resources. Many providers unaware of local Prop 10 resources.

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Local Option 1: Protect Health Care Safety Net for Children

- Increase funding for community providers, such as community clinics or provide support for health care coverage programs, already in place in some counties (Los Angeles)
- Ensure that funding is directed at service expansion consistent with Prop 10 mandates

Mitigates impact of.....

- Reductions in Medi-Cal funding – Decreased reimbursement rates will reduce capacity of community-level providers to continue current level of services, which often disproportionately affects children services.

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Local Option 2: Strengthen Early Intervention Programs

- Build on Statewide efforts underway to expand the number of children receiving developmental screenings. Screenings identify conditions that are often undetected prior to school entry and would benefit from early intervention. Early identification services are likely to be eliminated or scaled back due to budget crisis.
- Expand existing pilots and incentives (operating support for professionals serving low-income children) for providers to conduct development screening; provide expansion funding for agencies involved in early intervention services.

Mitigates impact of.....

- Reductions in Medi-Cal funding – Declining reimbursement rates will disincentivize any expansion of assessments during primary care visits. Funding would expand local pilots to provide developmental screenings in conjunction with well-child visits.
- Prop 10 Commissions could provide additional one-time funding for agencies, such as Regional Center that link children with services to eliminate potential backlog and delays from expanded screenings.

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Local Option 3: Expand Federal Funds for Critical Health Services

- Flexibility of Prop 10 funding makes it available to provide local match required for federal funds, providing the match that would otherwise be necessary from county general funds.
- Counties would expand local efforts and large counties would pursue additional collective strategies, building upon collective effort in support of AB 2527
- Existing leveraging models within counties would serve as examples for counties that have not yet initiated this strategy.

Mitigates impact of.....

- State funding declines and associated increased demand on local county resources

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Recommendation for Implementing Statewide Strategies

- Orange County will take lead role in establishing statewide oral health network. Funding contribution of \$25,000 to statewide association for county commission is recommended to launch planning process.
- Contract with Commission's current fiscal sponsor, PHFE Management Solutions, to provide venue to expand investments in Early Intervention Programs / Developmental Screening initiative
- Include in contract planning for Commission's expansion of:
 - Early Learning Programs (\$250,000)
 - Speech and Language (\$250,000)

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PHFE Scope: Early Intervention Programs / Developmental Screening

- Approach: Implement Statewide Early Intervention Pilot Project consistent with strategies adopted by the Commission in the multi-year Developmental and Behavioral Pathways Plan (Jan 2008).
- The Pathways Plan was designed to:
 - Increase the number of children screened /receiving referral services
 - Address barriers to expansion of screening during primary care visits
 - Address gaps in services and backlog from expanded screening
 - Pilot project would also address need for operating support and training for providers.
- Term: July 2008 – June 2011
- Maximum Obligation: \$ 750,000

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Recap of Recommended Commission Actions

- Agenda Item 7a: Annual Budget
 - Approve restated FY 2008/09 Budget and Encumbrance Policy
- Agenda Item 10:
 - Approve extended Terms for Major Initiatives (Tier 2)
- Agenda Item 11: New Facility and Facility Expansion Projects
 - Direct staff to develop multi-year service agreements and Loan Strategy consistent with outlined terms
- Agenda Item 7d:
 - Authorize contract with PHFE Management Solutions to provide Fiscal Intermediary Services related to Early Intervention / Developmental Screening Initiative, Speech and Language, and Early Learning

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**Additional Recommendations -
Remaining Estimated Fund Balance of
\$17.9 million is split as follows:**

- \$7.9 million will be set aside to address year-end close and may be reduced due to FY 07/08 year-end expenditures and lower revenues. Balance allocated below.
- \$10 million balance set-aside to address potential local share of expenditures to address state budget shortfall. If no plan is developed in July, will be allocated to PHFE contract at special meeting.

Children & Families
Commission of Orange County**POLICIES AND PROCEDURES**

NO: 4.2

TITLE: FUND BALANCE POLICYRevised Date: July 2, 2008
Effective: March 5, 2008

Background

The Commission's primary revenue source is Prop 10 Tobacco Tax revenue. Annual Tobacco Tax revenues have declined by approximately 24% from FY 1999-2000, the first year of operations, to FY 2006-2007.

Purpose

The purpose of this policy is to establish criteria for reserving sufficient fund balance and ensuring financial stability of Commission funded services.

Policy Statement

It is the policy of the Commission to retain fund balance at levels necessary to meet legal requirements and fund future obligations.

It is the policy of the Commission to establish a Reserve for Encumbrances at the beginning of each fiscal year to reserve fund balance in the amount equal to the Commission's unpaid obligations for the fiscal year and any future fiscal years of executed multi-year contracts.

It is the policy of the Commission to establish a Reserve for Contractual Obligations at the end of each fiscal year to reserve fund balance in the amount equal to the total of agreements for services that the Commission has authorized and directed staff to enter into agreements with a specified agencies, but for which contracts have not yet been executed.

It is the policy of the Commission to establish a Reserve for Capital Grants at the end of each fiscal year to reserve fund balance in the amount equal to the total of agreements for capital programs that the Commission has authorized and directed staff to enter into agreements with a specified agencies, but for which contracts have not yet been executed.

It is the policy of the Commission to establish a Reserve for First 5 California Initiatives at the end of each fiscal year to reserve fund balance in the amount equal to the total future amount that the Commission must reserve in order to meet its matching fund requirements for State Commission initiatives.

It is the policy of the Commission to establish a Contingency Funding Account within the annual budget to provide for unanticipated expenditures of a non-recurring nature (e.g. judgments/litigation).

It is the policy of the Commission to establish a Long Term Commitments Account to assure financial stability, adequate cash flow, and to meet future operational needs.

Children & Families
Commission of Orange County**POLICIES AND PROCEDURES**

NO: 4.3

**TITLE: OPERATING BUDGET DEVELOPMENT
AND AMENDMENT POLICY**Last Revised Date: July 2, 2008
Effective Date: November 30, 2001

Background

The Commission is bound by County Ordinance 00-4 (Section J) to prepare and adopt an annual budget for the development and adoption of a County Strategic Plan, setting forth all revenues and appropriations for the fiscal year.

Purpose

The purpose of this policy is to set forth the requirement for generating an annual budget for the Commission.

Policy Statement**Development**

It is the policy of the Commission that the operating budget will be developed in accordance with policies and priorities set forth in the Strategic Plan, Multi-Year Financial Plan, Commission goals and federal and state laws.

It is the policy of the Commission that the operating budget will be prepared on a modified accrual basis of accounting and will be adopted annually prior to the beginning of the fiscal year that it covers.

It is the policy of the Commission that the Executive Director is authorized to encumber the full amount of multi-year contracts within the first fiscal year of the executed contract (e.g. funding for 3 years would be encumbered in the first fiscal year of a 3-year contract).

It is the policy of the Commission to develop an operating budget that is based on a reasonable projection of available revenues and funding requirements, as well as in compliance with both the policy and program directives established by the Commission and County Ordinance 04-010. The budget shall be balanced where operating revenues are equal to, or exceed, operating expenditures.

It is the policy of the Commission that financial staff submits the "Budget Summary by Program," detailed program budgets and a narrative explaining any significant changes, trends, and developments. The detailed program budgets will include the five major funding areas of the Commission – Healthy Children, Ready to Learn, Strong Families, Capacity Building and Administrative.

It is the policy of the Commission to hold at least one duly-noticed public hearing before adopting the proposed annual budget and/or any adjustments, and provide copies of the proposed budget and any revisions thereto to the members of the Commission in accordance with County Ordinance 04-010.

Budgetary Control

It is the policy of the Commission that the Director of Finance will be responsible for maintaining a budgetary control system to ensure adherence to the adopted budget.

It is the policy of the Commission that the Executive Director has authority to approve budget transfers between programs. In no case, may transfers between programs cause total expenditures to exceed that which is appropriated by the Commission without a budget amendment.

It is the policy of the Commission that budget transfers are summarized and presented to the Commission in a quarterly staff report for informational purposes.

It is the policy of the Commission that the Director of Finance will be responsible for tracking encumbrances of multi-year contracts to ensure that each year's expenditures are within the contractual limit.

Budget Amendments

It is the policy of the Commission that amendments to the approved annual budget be submitted to the Commission for approval during the course of the fiscal year to account for changes in the estimated carry forward balance, unanticipated revenues, establishment of new programs approved by the Commission, and other circumstances that arise. These amendments are presented to the Commission for approval at a duly-noticed public hearing. Unless otherwise required by law, notice of public hearing is not required to be published in the newspaper.

ORANGE COUNTY CHILDREN AND FAMILIES COMMISSION

RESOLUTION NO. 08-xxx C&FC

July _____, 2008

**A RESOLUTION ESTABLISHING AN FINANCE
SUBCOMMITTEE WITH AUTHORIZATION TO TAKE
CERTAIN ACTIONS RELATED TO NEGOTIATION AND
EXTENSION OF CONTRACTS ON SPECIFIED TERMS
AND CONDITIONS**

WHEREAS, the California Children and Families Act of 1998, Health and Safety Code section 130140, *et seq.* (as amended, the "Act") implementing the Children and Families First Initiative passed by the California electorate authorized the establishment of county Children and Families commissions, including the Children and Families Commission of Orange County ("Commission") and granted local county commissions autonomy with respect to the expenditure of tobacco tax revenues allocated pursuant to the Act to county commissions for the benefit of children prenatal to five years of age and their families; and

WHEREAS, in the exercise of its local discretion and autonomy, the Commission has adopted its Strategic Plan, its 10-year financial plan and the recommendations of the Bridgespan Report in order to identify and 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; and

WHEREAS, pursuant to those plans and recommendations, the Commission has entered, and contemplates entering additional, agreements for critical services, facilities and technical support to and for children prenatal to five years of age and their families; and

WHEREAS, contractors, grantees, and prospective contractors and grantees, desire assurances that essential Commission funding will be available to meet their service planning and capital commitment needs.

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

Section 1 There is hereby established a finance subcommittee of this Commission consisting of Commissioners [*to be appointed by Commission*]

Section 2 For the period July 3, 2008 to June 30, 2009, unless further extended by this Commission, the authority, powers, duties and responsibilities of the finance subcommittee shall be as follows:

a. To permit Grantees and other contractors to elect to receive advance payment of funding on the following conditions:

- (1) The agreement is for multiple years.
- (2) The contractor has a history of successful performance in meeting annual outcomes.
- (3) The contractor first obtains a performance bond, or substantially similar security, to ensure faithful performance.
- (4) The funding is consistent with Bridgespan implementation actions taken by the Commission.

b. To authorize the Executive Director to amend current agreements, and revise Commission-authorized agreements that have not yet been formed, by including advance payment provisions substantially similar to the language set forth in Attachment 1 to this Resolution.

c. To authorize the Executive Director to amend current agreements, and revise Commission-authorized agreements that have not yet been formed, by revising, among other things, the scope of work, to ensure compliance with Bridgespan implementation actions.

d. To authorize the Executive Director to amend current agreements, and revise Commission-authorized agreements that have not yet been formed, by revising, among other things, the termination provisions to replace the Commission's right to terminate without cause with a right to terminate only for cause due to Contractor's default, in order to ensure that Commission funding will not be arbitrarily discontinued.

e. To approve final agreement with the YMCA of Orange County for the construction of an aquatics center and related facilities in Santa Ana for the provision of health and fitness services to children 0-5 in the community. The terms and conditions of the funding agreement and Commission loan agreement or other similarly secured financial instrument will be consistent with prior Commission actions and shall include leased space for Commission approved services, including Dr. Riba's clinic, and may include repayment provisions based upon leased space.

f. To approve 10-year service agreements substantially similar in form to Commission-approved Master Agreements or the "Funding Agreement for Hope Family Transitional Housing in Buena Park by and between Children and Families Commission of Orange County and Rescue Mission, Inc.," whichever is most appropriate, for major capital expansion programs at, by way of non-exclusive example, the Discovery Science Center and Pretend City on the following conditions:

- (1) Funds have been budgeted and earmarked, designated or otherwise identified by the Commission for that purpose.
- (2) The Commission has identified the project and the contracting parties, or class of contracting parties.

By way of specific example, the subcommittee is authorized to approve final proposals and agreements for a 10-year lease, consistent with the staff report for the Commission's July 2, 2008 meeting, with (1) the Discovery Science Center, at an annual rate of \$350,000 and a set-aside for an amount not to exceed \$500,000 for one-time improvements and start-up costs and (2) the Pretend City at an annual rate of \$350,000 for a total investment of \$3,500,000.

g. To take such other and further action as is reasonably necessary and appropriate to carry out and implement the authority given in this Resolution.

h. The Executive Director and Commission Counsel are authorized to prepare and enter into agreements authorized by this Resolution.

i. The Executive Director and Commission Clerk are authorized to execute and attest, respectively, Agreements pursuant to this Resolution on behalf of the Commission, as prepared and approved by the Executive Director and Commission Counsel.

The foregoing was passed and adopted by the following vote of the Children and Families Commission of Orange County on July _____, 2008 to wit:

AYES:	Commissioner(s):
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

[¶ #] MAXIMUM PAYMENT OBLIGATION. [-or- COMPENSATION.]

[¶ #.1] The Maximum Payment Obligation. The Maximum Payment Obligation of COMMISSION to CONTRACTOR for single year and multi-year contracts may either be made in installments based on services performed in the Scope of Work set forth in Exhibit A to this Agreement (in accordance with section 16.2 and 16.4 of this Agreement). In the case of multi-year contracts, and only multi-year contracts, the CONTRACTOR has the option of requesting that COMMISSION advance the remaining Maximum Payment Obligation for the agreement to CONTRACTOR in a single lump sum advanced payment ("Advance Payment Amount"). If CONTRACTOR chooses to exercise the option of receiving the Advance Payment Amount, several provisions will be modified as a result. The modified provisions are set forth in Exhibit C to this Agreement and shall supersede the corresponding provisions in the body of the Agreement. CONTRACTOR agrees to comply with each of the modified provisions set forth in Exhibit C in addition to the provisions of this Agreement which are not modified by Exhibit C. If CONTRACTOR chooses not to exercise the advanced payment option, the provisions of this Agreement, excluding those modified provisions in Exhibit C, shall apply.

[¶ #.1.1] If the CONTRACTOR on a multi-year contract opts to exercise its discretion and receive funding via the Advanced Payment method, it shall formally notify the ADMINISTRATOR in writing of this decision. Once the decision has been made by the CONTRACTOR to exercise the Advanced Payment method, the modified provisions found in Exhibit C shall apply.

* * * *

[¶ #.9] 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 which a court of competent jurisdiction has ruled to be lawful, 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.

* * * *

[¶ #] RIGHTS OF TERMINATION FOR CAUSE.

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.

EXHIBIT C

**MODIFICATION TO TERMS OF AGREEMENT UPON ELECTION TO RECEIVE
ADVANCE PAYMENT AMOUNT**

If CONTRACTOR opts to receive the Advance Payment Amount, each of the terms of the Agreement will remain in full force and effect with the exception of Paragraphs 8, 15, 16, 17, 18, 23 and 24¹ which shall read as follows.

8. RESPONSIBILITIES OF CONTRACTOR.

8.1 Conditions to COMMISSION's Obligation to Proceed under Agreement. COMMISSION's obligation to proceed with performance, installment payment, and/or advanced payment of the Maximum Payment Obligation 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 shall satisfy (and submit evidence of its satisfaction to ADMINISTRATOR) these Conditions prior to the Date of Agreement or in the case of advanced payment, prior to the date of advanced payment.

8.1.1 Evidence of CONTRACTOR Approval of Agreement. (This condition shall apply to both installment and advanced payment methods) CONTRACTOR shall submit evidence of the approval of this Agreement by resolution of CONTRACTOR's governing board, or a true copy of the minutes of the public meeting at which this Agreement was considered and approved, or other evidence of approval satisfactory to ADMINISTRATOR.

8.1.2 Insurance. (This condition shall apply to both installment and advanced payment methods) 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.

8.1.3 Performance Bond. (This shall only apply to the advanced payment method) CONTRACTOR shall submit a performance bond to COMMISSION in accordance with Section 16.1.1 of the Agreement.

8.1.4 Multi-Year Contract. (This shall only apply to the advanced payment method) CONTRACTOR has entered into a multi-year Agreement with COMMISSION.

8.1.5. Formal Request for Advanced Payment. (This shall only apply to the advanced payment method) CONTRACTOR shall have submitted to ADMINISTRATOR a formal request to exercise advanced payment option under the terms of the Agreement.

¹ These are the paragraphs which would be amended in the Grant Agreements. Paragraphs 8, 10, 12, 16, and 17 will be modified in the Professional Services and Consultant Agreements.

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 Fiscal Audit of Contract. CONTRACTOR shall employ an independent, licensed Certified Public Accountant ("CPA") who shall prepare and file with ADMINISTRATOR a "Fiscal Audit" of this Agreement that shall include a review of the invoices submitted by CONTRACTOR to justify the reasonable cost of Services under this Agreement and a sampling (test) of the supporting documentation.

15.1.1 Multi-Year Funding. For multi-year funding agreements there shall be a Fiscal Audit completed for each year, and each annual Fiscal Audit shall become due sixty (60) days after the anniversary date of the Date of this Agreement, with the final Fiscal Audit due sixty (60) days from the end of the term of the Agreement or earlier date of termination of this Agreement. CONTRACTOR and ADMINISTRATOR may mutually agree via email to extend the date by which each Fiscal Audit is due.

15.1.2 Satisfaction of Repayment Obligation. Upon successful completion of each Fiscal Audit, ADMINISTRATOR shall reduce the total amount owed by CONTRACTOR in the event of default or breach.

15.1.3 Scope of CPA Opinion for Fiscal Audit. CONTRACTOR shall require the CPA who completes each Fiscal Audit to provide an unqualified professional written opinion that states whether the invoices submitted by CONTRACTOR under this Agreement were for actual and reasonably necessary costs and expenses to pay for work performed or goods purchased pursuant to the terms and conditions of this Agreement and that the indirect cost rate applied to staffing for invoices submitted, if any, is in accordance with the requirements of Subparagraph 16.3. CONTRACTOR shall ensure that corrective action is taken with respect to audit exceptions, if any, for lack of internal controls or adequate procedures noted in the Fiscal Audit within six (6) months after issuance of the applicable Fiscal Audit report.

15.2 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 CPA 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.

15.3 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 15.3 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.

15.4 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 _____ Dollars (\$ _____), 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 Advanced Payment of Maximum Payment Obligation. If CONTRACTOR exercises the option to receive advanced payment, said payment ("Advanced Payment Amount") shall be calculated as the Maximum Payment Obligation less any amounts previously paid pursuant to the installment method, if applicable. If retention was withheld a part of earlier installment payments, said retention shall be included in the Advanced Payment Amount and paid to CONTRACTOR.

Attachment 1

16.1.1 If CONTRACTOR opts to receive advance payment, CONTRACTOR shall obtain a performance bond ("Performance Bond") prior to receiving payment. Up to five percent (5%) of the balance of the Maximum Payment Obligation to be advanced at the time CONTRACTOR exercises the option may be applied towards the cost of obtaining the Performance Bond and shall be deducted from the Maximum Payment Obligation; any remaining portion of the cost shall be paid by CONTRACTOR. Before COMMISSION shall be obligated to make the Advance Payment, CONTRACTOR shall furnish COMMISSION the Performance Bond which shall be fully executed by CONTRACTOR and the surety guaranteeing the performance of the work. The surety and the form of the bond must be acceptable to COMMISSION and in a substantially similar format as the example attached to this Agreement as Exhibit D. Unless otherwise specified in this Agreement, the Performance Bond shall be in a sum equal to the Advanced Payment Amount.

16.1.2 CONTRACTOR shall ensure that the surety issuing the Performance Bond is familiar with all of the terms and conditions of this Agreement, and shall obtain a written acknowledgement from the surety that states that the surety thereby waives the right of special notification of any changes or modifications of the Agreement, or of extensions of time, or of decreased or increased Work, or of cancellation of the Agreement, or of any other act or acts by COMMISSION or its authorized representatives.

16.2 Payments. COMMISSION shall pay CONTRACTOR the Advanced Payment Amount upon satisfactory completion of the Conditions set forth in Paragraph 8.1. of Exhibit C. Upon receipt of payment, CONTRACTOR shall 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 expenditures 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.

16.3 Indirect Cost Rate. 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. CONTRACTOR and ADMINISTRATOR may mutually agree to an annual increase or decrease of the indirect cost rate listed in Exhibit B (Budget) to this Agreement based on a review of the State of California Department of Education independently assigned indirect cost rate(s), provided that COMMISSION's Maximum Payment Obligation in this Agreement does not increase as a result.

16.4 Invoices. Even though CONTRACTOR has exercised the option of advanced payment, CONTRACTOR shall still be required to submit completed invoices quarterly upon a form approved or supplied by ADMINISTRATOR.

16.4.1 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 expenditures of the

funding and the types and level of service provided during the pervious quarter, 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 expenditures were made) 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.

16.4.2 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 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 under this Agreement. Invoices for Services received after this date and time may not be considered to evidence satisfaction of CONTRACTOR's performance obligation under the Agreement. CONTRACTOR and ADMINISTRATOR may mutually agree in writing prior to the expiration of sixty (60) days after the end of the term of this Agreement to modify the date upon which the final invoice must be received.

16.6 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 which a court of competent jurisdiction has ruled to be lawful, 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.

16.7 Matching Funds. As applicable to the funding provided under this Agreement and as/if provided for in the Project Summary, Exhibit A, the following shall apply as to

COMMISSION's objective for CONTRACTOR to seek matching funds. Thus, notwithstanding anything to the contrary, CONTRACTOR is encouraged to secure State and Federal funds including, but not limited to those certain State of California programs known to both parties as Medical Administrative Activities (MAA) and/or Targeted Case Management (TCM) in which COMMISSION funds may be identified and used as required matching funds, as available and any of the funds received as the result shall be utilized to provide sustainability of CONTRACTOR's programs. CONTRACTOR shall use funds from this Agreement to perform MAA and/or TCM claimable activities. In addition, it is mutually understood that in order to participate in drawing down MAA or TCM, CONTRACTOR shall sign and maintain an agreement for the provision of MAA or TCM with the County of Orange Health Care Agency and comply with all necessary requirements.

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 in writing. 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 any future Agreements entered into between the parties.

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 a prior funding contract 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 termination or expiration of 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 preapproved 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 under 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 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 to 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.

23. RIGHTS OF TERMINATION FOR CAUSE.

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, COMMISSION reserves its right to seek recovery of any and all amounts deemed due from CONTRACTOR for Services which have not been performed or which have been performed in a manner inconsistent with the provisions of this Agreement, along with any all other applicable damages, from the Performance Bond surety pursuant to the provisions of the Performance Bond. COMMISSION shall submit a claim to CONTRACTOR's Bonding Company to recover the portion of the Maximum Payment Obligation for which Services have not been performed or have been performed in a manner inconsistent with the provisions of 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 above in Subparagraph 23 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 Submit a claim to the Performance Bond surety to recover any and all amounts deemed due from CONTRACTOR for Services which have not been performed or which have been performed in a manner inconsistent with the provisions of this Agreement, along with any and all other applicable damages.

24.1.3 Seek to recover monetary damages 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.

EXHIBIT D

ORANGE COUNTY CHILDREN AND FAMILIES COMMISSION
FAITHFUL PERFORMANCE BOND
FOR
GRANT AGREEMENT NO. _____

KNOW ALL MEN BY THESE PRESENTS that,
_____, as CONTRACTOR, and
_____, as SURETY, are held
and firmly bound unto the Children and Families Commission of Orange County, as
COMMISSION, in the penal sum of _____ dollars (\$_____), which
is one hundred percent (100%) of the Advanced Payment Amount, as set forth in Paragraph 16.1
of the Agreement for the above stated project, for the payment of which sums, CONTRACTOR
and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas CONTRACTOR has
been awarded and has entered into the annexed Grant Agreement with COMMISSION for the
above stated project and has exercised an advanced payment option, if CONTRACTOR
faithfully performs and fulfills all obligations under the contract documents, which are
incorporated herein by reference, in the manner and time specified therein, then this obligation
shall be null and void, otherwise it shall remain in full force and effect in favor of
COMMISSION; provided that any alterations in the obligations or time for completion made
pursuant to the terms of the contract documents shall not in any way release either
CONTRACTOR or SURETY, and notice of such alterations is hereby waived by SURETY.

WITNESS our hands this _____ day of _____, 200_____

CONTRACTOR
[CORPORATION TYPE]

By: _____

(Seal)

President

By: _____

Secretary / Treasurer

[Signatures continued on next page.]

Attachment 1

SURETY
[SURETY'S NAME / TYPE]

Mailing Address:

(Seal)

By: _____
[Name]
[Title]

*NOTE: SIGNATURES OF CORPORATE OFFICIALS AND SURETY MUST BE NOTARIZED,
ATTACH ACKNOWLEDGEMENT.*

BOND APPROVED AS TO FORM:

TERRY C. ANDRUS, COMMISSION COUNSEL