

**DATE:** June 4, 2012

**TO:** Children and Families Commission of Orange County

**FROM:** Michael M. Ruane, Executive Director



**SUBJECT:** Progress Report on Round 1 Catalytic Investments: Updated Terms and Conditions and Proposed Funding Allocation

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**SUMMARY:**

Since filing the agenda for the June 2012 Commission meeting, there are two new actions for the Round 1 Catalytic Investment projects. The negotiation process with THINK Together to provide long-term Early Literacy and Math programs has resulted in updated terms and conditions that are presented for approval, and a funding allocation to expand the Casa Teresa shelter for pregnant women and new mothers as part of the Emergency Shelter investments is recommended.

**Early Literacy and Math Catalytic Investment - Updated Terms and Conditions -**

Commission staff and counsel have been working with the representatives from THINK Together to develop final terms and conditions for an agreement implementing the initial term sheet for Early Literacy and Math approved at the February 2012 Commission meeting. The innovative and non-traditional nature of this catalytic investment requires some alterations to the Commission standard terms and conditions as noted in the attached matrix (Attachment 1). These modified terms represent variances from the standard business practices of the Commission to accommodate the unique nature of this project. These modifications have been reviewed by Commission counsel and Commission approval is recommended to enter into an agreement for the catalytic investment in Early Literacy and Math with THINK Together utilizing these modified terms and conditions.

**Emergency Shelter Catalytic Investment – Funding Allocation for Casa Teresa**

During the past winter season, the Armory Family Redirection program served over 500 families of which 75 were pregnant women. Casa Teresa has been in discussions with the Commission and HomeAid Orange County to expand their program to include an emergency shelter component focused on pregnant women. Approval of the term sheet for Commission investment in an Emergency Shelter project with Casa Teresa (Attachment 2) is recommended.

The Commission's investment is up to \$1.5 million, \$750,000 initial investment and up to an additional \$750,000 if Casa Teresa is able to obtain other matching funds and complete a comprehensive strategic plan integrating the additional services. Depending on the amount of funds raised, Casa Teresa will be able to use the Commission funding either for operations or acquisition of the shelter space. The Commission's FY 2011/12 budget included funding for an emergency shelter project, \$750,000 of the funding for this project will come from that allocation. If conditions are met, the additional funding of \$750,000 will be included in the FY

2012/13 budget under the allocation for HomeAid Orange County and Emergency Shelter projects. This would leave over \$6 million for additional HomeAid Orange County Catalytic Investment projects. The funding will be provided directly to Casa Teresa and will be established as a service payback agreement.

This Supplemental Transmittal includes two additional recommended actions to the two that are in the original staff report. The four recommended actions for the Round 1 Catalytic Investments are listed for formal action.

**RECOMMENDED ACTIONS:**

1. Receive update and presentation on Round 1 Catalytic Investments
2. Approve updated final terms and conditions for Round 1 Catalytic Investment as set forth in the staff report.
3. Approve modified terms and conditions (Attachment 1) for Agreement Number FCI-EL-06 with THINK Together for Early Literacy and Math.
4. Approve Casa Teresa Emergency Shelter Catalytic Investment Terms and Conditions (Attachment 2).

**ATTACHMENTS:**

1. Summary of Modified Terms and Conditions for Agreement FCI-EL-06 with THINK Together
2. Casa Teresa Emergency Shelter Catalytic Investment Terms and Conditions

**SUMMARY OF MODIFIED TERMS AND CONDITIONS  
FOR AGREEMENT FCI-EL-06 WITH THINK TOGETHER**

<b>Clarification of Requirement:</b>		
<b>Section Heading</b>	<b>Description</b>	<b>Section Reference</b>
Alteration of Terms	Clarified language regarding mutual agreement to update work plans, scopes of work, and budget for each year of the agreement.	Section 2.1
Insurance	Added “except as otherwise expressly set forth herein” to ensure provisions within this section are not inconsistent with other remedies available throughout the agreement.	7.6(c)
Representations and Warranties of Contractor	Language clarified that warranties are made as of the date of execution of the agreement and that Contractor shall ensure compliance throughout the term.	Section 10 and subsections therein
Form of Business Organization and Real Property Disclosure	Clarified the list of corporate officers and board members required to provide disclosures under this provision and modified language to reflect that Contractor will be purchasing a building rather than leasing or renting space.	Section 11 and subsections therein
Interpretation of Contract Requirements	Clarified that Administrator’s interpretation of the contract requirements are non-binding and that Contractor shall have the right to assert its rights and remedies in court.	Section 13
Maximum Payment Obligation - Indirect Cost Rate	Clarified that the maximum indirect cost rate shall be calculated based on the total annual project budget and not the ongoing operational funding allocation by Commission in each succeeding year.	Section 16.5
Maximum Payment Obligation - Source of Funding Limited to Commission Funding	Clarified that any reduction in the ongoing operational funding allocation by the Commission shall not reduce the Service Repayment for such year.	Section 16.10
Termination	Clarified that if the agreement is terminated without cause by either party, the Deed of Trust will be reconveyed upon repayment of any remaining repayment balance.	Section 24.1.1
Reversion of Assets	Modified language to reflect that the standard capital equipment provisions requiring return or disposition of capital equipment purchased with Commission funds will not apply to the building purchased by Contractor.	Section 26.2

<b>Modified Requirement/Authority:</b>		
<b>Section Heading</b>	<b>Description</b>	<b>Section Reference</b>
Alteration of Terms	Confirmed sole discretion of Commission, through Administrator, to determine program changes in the event of funding reduction in future years.	Section 2.3
Subcontracts	Added provision that consent to subcontracts shall not be unreasonably withheld.	Section 5
Indemnification – Notice of Claim	Reduced time for Commission to give notice of third party claim from 30 days to 10 days to allow Contractor to have more time to prepare a response to the claim.	Section 6.3

Reporting Requirements - Enforcement of Child Support Obligations	Changed timeframe for Contractor to comply with County's reporting requirements for Child Support Enforcement Obligations from 30 days of "award" of this Agreement to 30 days of "execution" of this agreement.	Section 14.2.1
Audits / Records	Added requirement for Commission to ensure its staff and consultants shall hold all records of Contractor accessed within the context of an audit or other monitoring activity in confidence and not release publicly without the prior written approval of Contractor or as required by law.	Sections 15.3, 19.1, and 19.6
Commission Security for Funding	Added provision setting forth the security options for Commission funding including Letter of Credit, Deed of Trust, and disbursement of funds for purchase or construction of a building.	Section 18
Records	Records of services and data related to the performance of this agreement shall not be released without the written prior approval of <u>either</u> party (changed from Commission).	Section 19.4
Ownership of Intellectual Property Rights	Removed provision allowing Commission to act as Contractor's attorney-in-fact to perfect ownership and control of intellectual property developed by Contractor under this Agreement without modifying Commission's ownership rights to such property.	Section 21
Default	Added provision that Contractor shall have 30 days following written notice of non-performance or non-compliance to cure before determined to be in default of the agreement. Changed from optional 15 days to cure.	Section 25.1

<b>Casa Teresa Emergency Shelter Catalytic Investment Terms and Conditions</b>	
<b>Existing Program Overview</b>	<p>Casa Teresa provides a temporary home and on-going support for pregnant women 18 years of age and older. The transitional housing program prepares these women to make informed decisions for themselves and their babies. Casa Teresa's vision is to empower pregnant homeless women 18 years of age and older to achieve lifelong self-sufficiency for themselves and their children. The program consists of 3 phases: Phase I – 3 months of residential support services, Phase II – 6 months of parenting skills and self-sufficiency in Transition House I living, and Phase III – 12 months of extended social support in Transition House II living.</p> <p>The current Commission grant provides for 14 women and their babies to participate in Casa Teresa's Phase II and III programs. The program has a robust case management component and requires residents to be actively working or going to school and participate in life skills classes to move them towards the goals of self-sufficiency.</p>
<b>Statement of Need</b>	<ul style="list-style-type: none"> <li>• Orange County does not have a year-around emergency shelter system for children and families</li> <li>• Less than 25 beds are available for families in need of emergency shelter (when Armory Program is closed)</li> <li>• During the winter of 2011/12 the Armory Program served over 500 families with 75 of those families being pregnant women</li> </ul>
<b>Proposed Catalytic Investment</b>	The Commission to provide funding to purchase additional facility that would allow for an estimated 26 bed emergency shelter program for pregnant women and their children. The program would also include a drop-in center that would allow for graduates of the program to access ongoing supportive services, and prevention services for pregnant women that might be at-risk of becoming homeless.
<b>Terms of Funding</b>	
<b>Commission Financial Contribution</b>	The Commission would provide \$750,000 for acquisition of the property. An additional \$750,000 will be made available to the agency when a comprehensive strategic fund development and operational plan are completed and at least \$500,000 has been raised in matching funds. In the event, Casa Teresa is able to raise more funding for the purchase of property, the Commission funding may be used for operational support in the first 5 years.
<b>Service Payback</b>	Casa Teresa will provide emergency shelter services to pregnant women and their children. Emergency shelter services will include but are not limited to shelter, food, basic needs, prenatal services, case management and linkage to permanent housing or transitional housing programs. Estimated service payback completion is 10 years.
<b>Funding Security</b>	<p>The Commission's investment will be secured either by:</p> <ul style="list-style-type: none"> <li>• Letter(s) of Credit held by the Commission and once Casa Teresa has received the certificate of occupancy then the Letter(s) of Credit will be reduced annually by the amount of service payback completed during the prior year; or</li> <li>• Placing the Commission in first position on the deed of trust on their existing facility.</li> </ul> <p>Initially, the security will be for \$750,000 and then will need to be increased based on the agency's ability to meet match funding requirements.</p>
<b>Programmatic Oversight</b>	<p>In order to meet the match funding requirements Casa Teresa will need to complete a comprehensive strategic plan that integrates the additional property and emergency shelter beds into agency's mission, operations and fund development strategies.</p> <p>During operations, Casa Teresa will be required to implement and report on a work plan to include the services as described above. They must also report on the demographic and outcome information for each client. Casa Teresa will participate in countywide efforts to coordinate intake services for emergency housing services specific to pregnant women.</p>