

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

A. INTRODUCTION

In 1998, *Health and Safety Code* Section 130105 created in the State Treasury the California and Families Trust Fund, Section 130105 (d)(1)(B), which states in part, "Five percent shall be deposited into an Education Account for expenditures to ensure the children are ready to enter school and for programs relating to education, including, but not limited to, the development of education materials, professional and parental education and training, and technical support for county commission..." in the areas further described in statute.

Consistent with statutory direction, in November 2001, First 5 California launched a free *Kit for New Parents* with the 58 County First 5 Commissions as partners. The *Basic Kit for New Parents* is a box of resource materials geared toward new and expecting parents and parents and caregivers of children through age 5. The *Kit for New Parents* contains basic information on parenting skills, the importance of early childhood development, and key resources available to families of young children. The *Customized Kit for New Parents* included added materials provided by the County Commissions.

California's 58 counties are allocated both basic and customized *Kits for New Parents*, herein referenced as the *Kit*, based on the county's annual birth rate with special focus on hard-to-reach families. County First 5 Commissions establish partnerships with local organizations for the "in-person" dissemination of *Kits*. First 5 California also advertises the *Kits* to individuals through paid and free media, including a 1-800-KIDS-025 toll free number.

B. DEFINITION OF SERVICES

Contractor shall provide First 5 California with procurement and fulfillment services needed to produce public quality *Kits* in up to six languages, English, Spanish, Mandarin, Cantonese, Korean, and Vietnamese. It shall be the responsibility of the contractor to produce or procure all components listed in Exhibit A-1, *Basic Kit Component Specifications*, necessary to assemble complete *Kits*. *Kit* components shall be produced from masters provided by First 5 California, and/or procured by the contractor.

Contractor must have the administrative and technical resources as well as the appropriate setting and space to produce and warehouse approximately 1,300

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existing pallets and new stock of completed *Kits* in a temperature-controlled environment.

Contractor must have the ability to process *Kit* request orders and ship single and multiple orders for basic or custom *Kits* from individuals and organizations within three (3) business days from the original date of request; maintain allocation and inventory records, implement inventory pre-planning measures to prevent being out-of-stock on any *Kit* components, and provide various oral and written reports to the First 5 California program manager.

Contractor shall also insert up to three "Custom *Kit*" components. Exhibit A-2 provides examples of County Commission Custom *Kit* Component Specifications. First 5 California reserves the right to add or delete County Commissions listed in Exhibit A-2 by providing the contractor a written 30-day notification. Customized *Kit* services shall be provided at the rate specified in Exhibit B-2, Item D, of the Cost Sheet for any County Commission added to the list.

C. PROJECT REPRESENTATIVES

The Project Representatives during the term of this Agreement will be:

First 5 California	Contractor (To Be Determined)
Vernettia Syphax	Name:
2389 Gateway Oaks Drive, Suite 260	Address:
Sacramento, CA 95833	City/State/Zip:
Telephone: (916) 263-1089	Telephone:
Fax: (916) 263-1360	Fax:
E-mail: vsyphax@cfc.ca.gov	E-mail:

Direct all administrative inquiries to:

First 5 California	Contractor (To Be Determined)
Vernettia Syphax	Name:
2389 Gateway Oaks Drive, Suite 260	Address:
Sacramento, CA 95833	City/State/Zip:
Telephone: (916) 263-1089	Telephone:
Fax: (916) 263-1360	Fax:
E-mail: vsphas@cfc.ca.gov	E-mail:

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First 5 California and the contractor may change the listed Project Representatives upon providing ten (10) calendar days written notice to the other party. First 5 California deems this as a minor modification and will not require a formal amendment to this Agreement to reflect this change. In the event this Agreement is amended for other reasons, the Project Representatives shall be updated at that time.

D. COMMENCEMENT OF SERVICES

Contractor shall not deliver or commence services required under this Agreement until written approval has been received from the California Department of General Services (DGS). First 5 California is not authorized to reimburse the contractor for expenditures incurred outside the approved term of this Agreement; therefore, any delivery or performance of services commenced prior to the written approval of DGS shall be considered voluntary on the part of the contractor.

E. CONTRACTOR LOCATION OF BUSINESS

The contractor shall perform the services of this Agreement during the normal business hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, except holidays. The contractor shall authorize any representative of First 5 California to conduct unannounced on-site physical audits of the *Kits*, materials, and components purchased through this Agreement during these business hours and days.

The contractor shall list all locations where business is performed on Exhibit A-3, Contractor Business Location(s). If at any time during the term of this Agreement a business location is changed, the contractor shall notify the First 5 California program manager in writing within ten (10) business day of the change of location. Any changes to location must adhere to the 20-mile radius requirement specified in Exhibit A-3.

F. WORK TO BE PERFORMED

The contractor shall perform all work as specified in the Scope of Work, Exhibit A. The contractor shall immediately notify the First 5 California program manager by telephone, and follow up in writing, of any event or proposed change including those requested by the County Commissions that could affect the scope, budget, or schedule of work performed under this Agreement. The First 5 California program manager must approve any such change(s) in writing.

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Task 1: Production and/or Procurement

- 1.1. All components for the *Kit* listed in Exhibit A-1, Basic *Kit* Components Specifications must be produced and/or procured by the contractor. If at any time during the term of this Agreement, the contractor is unable for any reason to procure one or more of the components specified in the Basic *Kit*, the contractor shall not be paid for that item or items, which will reduce the cost of the Estimated Per *Kit* Cost for Basic *Kit* according to the cost specified for that component in Exhibit B-2, Cost Sheet.
- 1.2. The *Kits* are evaluated on an on-going basis; therefore, First 5 California reserves the right to modify, supplement, or remove *Kit* components or any other material that may become obsolete or unavailable, and to update contents to ensure compliance with laws or regulations, or to better meet the educational needs of parents, etc. The contractor shall be notified of any such change to the *Kit* by the First 5 California program manager. The date for the changes to become effective shall be mutually agreed upon by the First 5 California program manager and contractor. If a substitution becomes necessary, it is the intent of First 5 California, whenever appropriate, to seek substitutes that are equivalents to the original components in cost and size whenever possible.
- 1.3. Customized components are provided to the contractor by the County Commissions; however, all components must have prior approval by the First 5 California program manager. The First 5 California program manager shall provide the contractor with an updated custom *Kit* component listing by county on an as-needed basis. Any substitution of original County Commission customized components will not impact the original cost of components provided in Exhibit B-2, Cost Sheet.
- 1.4. All specifications identified in Exhibit A-1 must be followed unless changes are pre-approved in writing by the First 5 California program manager.

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1.5. Contractor must be capable of producing 350,000 *Kits* per year. First 5 California estimates that on an annual basis a minimum of 300,000 *Kits* will be produced and distributed.

1.5.1. Table 1 below represents the estimated production of *Kits* by language.

1.5.2. Table 2 provides the estimated number of *Kit* orders shipped annually by pounds. The basic *Kit* weighs approximately 3 pounds and the custom *Kit* no more than 5 pounds.

TABLE 1			
Language	Fiscal Year 10/11	Fiscal Year 11/12	Fiscal Year 12/13
English	175,000	175,000	171,600
Spanish	125,000	125,000	114,400
Korean	0	0	1,960
Vietnamese	0	0	4,760
Cantonese	0	0	4,200
Mandarin	0	0	3,080

TABLE 2	
Weight Category by Pound	Estimated Number of Orders Shipped Annually
0 – 5 pounds	8,544
6 – 10 pounds	1,464
11 – 15 pounds	456
16 – 20 pounds	6,876
21 – 30 pounds	9,528
31 – 50 pounds	96
51 – 100 pounds	60
101 – 500 pounds	1,788

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TABLE 2 (continued)	
Weight Category by Pound	Estimated Number of Orders Shipped Annually
501 - 1,000 pounds	540
1,001 - 2,800 pounds	276
2,801 – 7,700 pounds	24
7,701 – 25,000 pounds	1

- 1.6. Monitoring and maintaining the quality and consistency of production of the Basic *Kit* and its components, including examination/inspection of all materials and proofs for precision with order specifications is the responsibility of the contractor.
- 1.7. Contractor shall oversee production, including delivery of proofs, to the First 5 California program manager for review and final approval prior to production.
- 1.8. Contractor shall coordinate and complete any corrections to the *Kit* components as determined by the First 5 California program manager.
- 1.9. The First 5 California program manager shall be notified of scheduled press checks and the contractor shall coordinate First 5 California's request to participate in press checks prior to printing.
- 1.10. Contractor shall print or procure DVD sleeves in all languages approved by the First 5 California program manager.
- 1.11. The contractor shall produce and/or procure components to assemble 100,000 *Kits* within the first ninety (90) working days from the date the Agreement is fully executed.
- 1.12. Contractor shall make modifications to components or materials purchased, as authorized by the First 5 California program manager.
- 1.13. Contractor must have an on-line ordering system operational within fourteen (14) working days upon execution of the Agreement.

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Task 2: Ordering, Assembling and Shipping of *Kits*

Contractor shall:

- 2.1. Take orders electronically on-line and through telephone from customers and have the ability to take orders via a vendor provided toll-free 1-800 number.
- 2.2. Provide *Kit* assembly.
- 2.3. Provide *Kit* shipping across the State of California. Shipping includes single orders, pallet delivery, and special handling such as hand-delivery to locations that cannot accept pallet delivery and special requirements such as hand truck, lift gate, and delivery appointments, returns, master pack cartons and filler. The contractor will be responsible for all special handling and freight costs associated with distribution of the *Kit*. Contractor shall manage multiple freight carriers and forwarders to ensure prompt receipt of *Kit* to recipients. Additionally, contractor shall use the most cost-effective method of shipping and shall provide the First 5 California program manager with bid quotes from a minimum of three (3) vendors for prior approval.
- 2.4. Have adequate and clean, pest-free space for the continuous assembly and production of the *Kit*.
- 2.5. Coordinate with the First 5 California program manager, the toll-free 1-800 line for individual orders between normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.
- 2.6. Assemble the appropriate components for each *Kit* box in all languages in the numbers approved in writing by the First 5 California program manager, in both basic and custom *Kit* forms. Assembly of *Kit* components consists of constructing a box; inserting all basic components and custom *Kit* components, as applicable; and sealing the box.
- 2.7. Provide an ordering system that uses password protected on-line ordering capabilities. Send confirmation of accepted or amended orders.
- 2.8. Setup an automated tickler system that sends changes in orders or shipping information to affected clients.

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- 2.9. Provide a secure, permission-based Internet Website to allow First 5 California and all 58 First 5 County Commissions to rapidly access their customer account information. County Commissions will be provided a login to place orders online for their individual counties and county partners only, to see county specific information such as their inventory and allocation. First 5 California must be provided a login to place orders on-line for all county commissions, partners, and the general public at large in California, and see up-to-date account information (in real-time), which includes: (1) allocation which includes an allocation information table showing the *Kits* shipped as well as *Kits* allocated for each county and for the main office (First 5 California) in actual numbers and in percentages broken down by month within the latest fiscal year and the ability to First 5 California staff to modify allocations upon county request; (2) orders received to date; (3) pending orders; (4) shipping dates for past orders, pending orders, and future orders for the remaining fiscal year; and (5) special shipping instructions. Must provide ability to enter subscription orders (ability to place orders for future shipping). The system must also alert the county administrator and the First 5 California program manager when orders have been placed on hold when a county's allocation has been exceeded. The Website must utilize a compatible platform with the computer-based system addressed in Task 3.8 to allow for direct transfer of order information from the web-based ordering system to the computer-based order/fulfillment/distribution systems, with the intent of restricting the key data entry of order information to a single time for each *Kit* order transaction.
- 2.10. Ship all orders within a maximum of three (3) business days of receipt of the order, using order receipt date to determine shipping sequence, unless other arrangements are made with the First 5 California program manager, or the county commission placing the order.
- 2.11. Provide a system for tracing and tracking of orders, and monitoring delivery, including delivery confirmation to ensure *Kits* are delivered in a timely manner.
- 2.12. Coordinate and maintain a successful working relationship with the First 5 California call center contracted to operate First 5 California's toll-free multilingual call center. The call center receives about 100 to over 35,000 calls a month, and is responsible for mailing language preference information to fulfill individual *Kit* orders, and transfer calls to other service areas provided by First 5 California.

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- 2.13. Coordinate efforts with the call center contractor, including receiving daily electronic reports of individual orders to fill; assist in resolving calls from customers who report not receiving their orders; use weekly tracking reports from the call center contractor regarding single-order customers.
- 2.14. Provide for a sufficient number of staff to meet all requirements of the contract regardless of variable order and fulfillment requirements.
- 2.15. Provide to the First 5 California program manager monthly production and shipping summaries in hard copy and Excel format on CD along with monthly invoice(s).

Task 3: Storage, Inventory, and Reports

- 3.1. Maintain and archive an electronic copy of each item printed for First 5 California, updating the electronic master each time there is a revision to the item. Obtain prior written authorization from the First 5 California program manager for release of originals to any other requesting agency/office.
- 3.2. Have adequate space to store all materials and components required for the continuous production of the *Kit*.
- 3.3. Have enough storage to warehouse a three-month stock of completed *Kits* in a pest-free, temperature-controlled environment. Warehousing space shall include storage of completed *Kits* and *Kit* materials and components transitioned from the prior contractor upon execution of the Agreement. First 5 California anticipates 1,300 pallets of built *Kits* to be transitioned to the new contractor. Unless otherwise directed by the First 5 California program manager, the contractor shall first distribute the transitioned *Kits* until supplies are exhausted. Contractor shall be reimbursed actual shipping costs as supported by documentation and warehouse costs in accordance with the rate specified in Exhibit B-2, Cost Sheet.
- 3.4. Provide inventory management and status reports. Track and report on the number of *Kit* requests received and processed in a format mutually agreed upon between the contractor and the First 5 California program manager.
- 3.5. Maintain allocation and inventory records and implement pre-planning inventory measures to prevent being out-of-stock of any items.

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- 3.6. Relinquish to the First 5 California program manager, upon request, all camera-ready masters, negatives, original artwork, print ready art or copy, electronic copies, etc.
- 3.7. Provide timely and accurate orders, inventories, and shipping systems.
- 3.8. Provide a computer-based system with at least the following functions:
 - (1) *Kit* component and final finished *Kit* product inventory control and planning;
 - (2) Accounting functions that are pertinent to this Agreement;
 - (3) Ordering;
 - (4) Allocation management; and
 - (5) Fulfillment management.
- 3.9. Provide accurate, timely (weekly, monthly, or ad hoc) reports on the information in Task 3.7 for First 5 California use:
 - (1) Starting inventory of finished *Kits* by language and county
 - (2) Ending inventory of finished *Kits* by language and county
 - (3) Shipped *Kits* by language and county
 - (4) Detailed recipient shipping reports including tracking information
 - (5) Produced *Kits* by language and county
 - (6) County allocation fulfillment report
- 3.10. Work with the First 5 California program manager to determine adequate levels of inventory and the format and information required for all reports.
- 3.11. Provide electronic access to all inventories and shipping system information to the First 5 California program manager and subcontractors, if needed.
- 3.12. Provide confirmation of custom *Kit* materials received and inventory for custom *Kit* materials to each County Commission on a monthly basis.
- 3.13. Provide a system for monitoring staff for quality control.
- 3.14. If applicable, contractor shall provide First 5 California with a copy of a service level agreement from the cloud computing provider that describes response time to problems, detailed background and recovery strategies, and explains the security in place.
- 3.15. Contractor must have a disaster recovery plan in place and provide a plan summary.

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Task 4: Services for the First 5 County Commissions

- 4.1. Receive, inventory, process, and distribute customized *Kits* for the local county commissions.
- 4.2. Establish on-line ordering accounts for all participating county First 5 commissions. Contractor shall maintain a toll-free customer services line accessible to county partners during the normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays.
- 4.3. Upon request, provide training to all participating county First 5 commissions in the on-line ordering, tracking, and inventory system.
- 4.4. Provide county First 5 commissions with ongoing technical assistance upon request.

Task 5: Transition of Services to a Successor

- 5.1. To ensure a smooth transition of services upon the expiration or upon early termination of the Agreement, the contractor shall provide the First 5 California program manager with a written plan for transition of services to First 5 California or to a successor at a location designated by the First 5 California program manager within sixty (60) to ninety (90) calendar days prior to the new contract being awarded to a successor. This plan will be reviewed by the First 5 California program manager who may submit a request for clarification to the contractor within ten (10) business days of receiving the written plan from the contractor prior to approval.
- 5.2. The plan shall include a timetable and a detailed strategy to include transition of data files and materials, list of inventory on-hand of Basic *Kits* and Custom *Kits* broken down by county and any First 5 California *Kit* components that will be warehoused by the successor and a plan to reduce the inventory of *Kits*, if necessary.
- 5.3. Contractor shall work directly with the county commissions to determine the strategy for transition of county commission provided *Kit* components.
- 5.4. When permissible, contractor shall make available, at cost or less, any First 5 California on-stock materials purchased by the contractor for the *Kit* (e.g., baby board book) to the successor in order to avoid any delay in services due to

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transition. It shall be at the successor's discretion to purchase the components made available by the contractor. First 5 California will not reimburse the new contractor for on-stock materials purchased from the prior contractor. Costs of materials are strictly reimbursed in *Kit* form.

- 5.5. Any components not purchased by the successor shall become the property of the contractor to recycle, or dispose of in a manner that is environmentally responsible and in accordance with California state law.
- 5.6. Upon transition to a new contractor, First 5 California shall reimburse the contractor for bulk rate shipping of First 5 California owned materials and *Kits* on-hand. Reimbursement of shipping shall be at actual cost. Invoices shall be supported with adequate documentation. Prior to shipping, contractor shall notify the First 5 California contract manager of the total shipping cost for completed *Kits* and *Kit* components, and materials to a destination determined by the First 5 California's program manager. First 5 California shall have the discretion to accept the contractor's cost or determine other means for transfer of materials.
- 5.7. **The successor shall be reimbursed a One-Time per Pallet Handling fee for pre-built *Kits*. The fee is a one-time reimbursement for costs the successor will incur for labor associated with moving transitioned *Kits* delivered to the successor's loading dock to the warehouse, and data entry into the IT inventory system. The successor shall be reimbursed for the actual number of complete pallets received from the prior contractor. A pallet containing basic *Kits* can range between 640 pounds (packed out Master Cartons) to 840 pounds (192 unit bulk) with the dimensions of 48"x 40"x 48" and 48"x 40"x 52" respectively. Custom *Kits* can add up to 1.5 pounds of extra material.**
- 5.8. **The successor shall be reimbursed a per Electronic Data Interchange (EDI)/Phone Order and Shipment Processing Cost for pre-built *Kits*. This is to reimburse the successor for costs associated with EDI/Web orders or orders taken by phone/fax or e-mail, plus labor costs incurred for preparing orders for shipment.**

G. CONTRACTOR'S RESPONSIBILITIES

1. Designate a person to whom all project communications may be addressed and who has the authority to act on all aspects of the services. This person shall review the associated contract, scope of work, and associated documents with

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the First 5 California program manager to ensure an understanding of the responsibilities of both parties.

2. Provide information regarding the business structure of the contractor as required by the First 5 California program manager to provide the services under this scope of work.
3. The contractor shall comply with applicable state and First 5 California policies, procedures and best practices.
4. The contractor shall provide timely review and approval of First 5 California information and documentation provided by the First 5 California program manager to perform its obligations under the scope of work.
5. At completion of the Agreement term, the contractor shall return any and all First 5 California property, including transfer of data and any transition requirements as indicated above. The contractor is responsible for shipping costs.

H. FIRST 5 CALIFORNIA RESPONSIBILITIES

1. Designate a person to whom all contract communications may be addressed and who has the authority to act on all aspects of the services. This person shall review the associated contract, scope of work, and associated documents with the contractor to ensure an understanding of the responsibilities of both parties.
2. Provide information regarding the business structure of First 5 California as required by the contractor to provide the services under this scope of work and shall provide information as required by the contractor to perform its responsibilities.
3. Schedule and conduct an orientation meeting or teleconference with contractor to ensure that contractor fully understands the terms of the Agreement to successfully comply with the contract.

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**Basic Kit Component Specifications
KIT FOR NEW PARENTS**

Contractor shall contact and negotiate a cost for each item listed below. Costs shall be documented in Exhibit B-2.

BABY BOARD BOOK: "PUPPY AND FRIENDS"¹

6 versions of Creative (English, Spanish, Mandarin, Cantonese, Korean, Vietnamese)

Procure from: Macmillan
USA
175 Fifth Avenue
New York, NY 10010
Raquel Avila
646-307-5444

SOFT-COVER BOOK: "WHAT TO DO WHEN YOUR CHILD IS SICK"¹

5 versions of Creative (English, Spanish, Mandarin, Korean, Vietnamese)

Procure from: Warren Hand
Sales and Marketing
Institute for Healthcare Advancement
501 South Idaho Street, Suite 300
La Habra, CA 90631
www.iha4health.org
562-690-4001 Extensión 205

PRODUCT BOX (BRIEF CASE STYLE):

6 versions of Creative (English, Spanish, Mandarin, Cantonese, Korean, Vietnamese)

Style: Roll end lock front
Size: 12" x 9.5" x 2"
Board Stock: 200# E flute single faced, #3 white liner
Litho Stock: 10 pt. C1S
Litho Print: CMYK + AQ/0
Handle: Die cut provision for white plastic handle
Label: A clear Mylar label shall be used to seal the box

¹ Adequate copies of each component listed must be procured for use in the *Kits*.

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WIRE-O Book:

English Version

Size: 6" x 9"
Pages: 254 pages printed 4cp 2 sides
Text Stock: 60# gloss book
Cover Stock: 100# gloss cover printed 4cp 2 sides
Tab Stock: 100# gloss cover printed 4cp 2 sides 6 tabs per language full flood of
CYMK no mylar
Bindery: Trim, die cut cover and tabs, collate, insert tabs, wire-o bind on the
9" spine

Spanish Version

Size: 6" x 9"
Pages: 330 pages printed 4cp 2 sides
Text Stock: 60# gloss book
Cover Stock: 100# gloss cover printed 4cp 2 sides
Tab Stock: 100# gloss cover printed 4cp 2 sides 6 tabs per language full flood of
CYMK no mylar
Bindery: Trim, die cut cover and tabs, collate, insert tabs, wire-o bind on the
9" spine

Mandarin, Cantonese, Korean and Vietnamese versions will be undergoing translations and book specifications, and while similar, are not yet available. First 5 California will provide specifications as the books become available for production.

CONGRATULATION LETTER:

6 versions of Creative (English, Spanish, Mandarin, Cantonese, Korean, Vietnamese)

Size: 8.5" x 11"
Color: 4 cp 2-sided
Stock: 20lb. bond

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POISON CONTROL BROCHURE:

5 versions of Creative (English, Spanish, Mandarin, Korean, Vietnamese)

Size: 8.375 x 10.5 flat
Finished: 8.375 x 3.5 folded
Color: 4/4 plus Aqueous Coating
Stock: 7-point coated matte reply card
Convert: Die cut a slit for Magnet (see below), Score and 3 Panel Fold

MAGNETS:

5 versions of Creative (English, Spanish, Mandarin, Korean, Vietnamese)

Size: 1.75 x 2.5 finished size
Color: 2/0 2 PMS colors with Polypropylene finish
Stock: 20 mil
Convert: Die cut with rounded corners and arched top
Assembly: Place the magnet into the die cut spot to finish and carton pack

DVD WALLET:

6 versions of Creative (English, Spanish, Mandarin, Cantonese, Korean, Vietnamese)

Flat Size: 20-1/8" x 6-1/2"
Finished: 5" x 5" x 1/8"
Print: 4 cp plus aqueous 1 side
Stock: 10-point C1S
Convert: Die cut, gatefold, glue panels to create a 2-pocket wallet, carton pack

DVD-9 REPLICATION (2 PER KIT FOR ENGLISH AND SPANISH *KITS*):

Receive your gold master on DLT or DVD-R
Develop a glass master for each of the 2 DVDs
Replicate required number of DVDs.
Print in up to 4 colors directly on DVD.

DVD-5 REPLICATION (1 PER KIT FOR ASIAN *KITS*):

Receive your gold master on DLT or DVD-R
Develop a glass master for each of the 4 DVDs
Replicate required number of DVDs.
Print in up to 4 colors directly on DVD.

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MASTER PACK SHIPPING BOXES:

Format to be determined

ORAL HEALTH SEGMENTS FROM EDUCATIONAL MESSAGE SERVICES (EMS):

Manage the licensing agreement on behalf of First 5 California for information provided by EMS for the multimedia pediatric oral health program, which EMS distributes to First 5 California for VHS videos, DVD, CD and printed material. Contractor shall be responsible for keeping track of usage and paying the fees to EMS:

Tom Evans, Chief Executive
Educational Message Services
2300 Alessandro Drive, Suite 100
Ventura, CA 93001
Phone: 1 (805) 653-6000
Fax: 1 (805) 653-6077
Toll Free No: 1 (866) 654-8474

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**EXAMPLE
 Previous County Commissions Custom Kit Specifications**

County	Customize Yes/No	Customized Components
Alameda	Yes	Pamphlet, Alameda, Alameda County Resource Guide - Bilingual
	Yes	Chart, Alameda, Growth Chart in envelope - English
	Yes	Sticker, Alameda, Every Child Counts - English
	Yes	Chart, Alameda, Growth Chart - Spanish
	Yes	Sticker, Alameda, Cada Nino Cuenta - Spanish
Alpine	No	
Amador	No	
Butte	Yes	Packet, Butte, Low Cost, No Cost People Services Directory - English
Calaveras	No	
Colusa	No	
Contra Costa	Yes	Card, Contra Costa, Join Us! Make a Difference for Kids - Bilingual
	Yes	Card, Contra Costa, First 5 Contra Costa Creating A Brighter Future - English
Del Norte	No	
El Dorado	No	
Fresno	No	
Glenn	No	

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 Previous County Commissions Custom Kit Specifications**

County	Customize Yes/No	Customized Components
Humboldt	Yes	Shirt, Humboldt, T-Shirt - English
	Yes	Envelope Pack, Humboldt, Children & Families Commission First 5 Literature Packet - English
	Yes	Shirt, Humboldt, T-Shirt - Spanish
	Yes	Envelope Pack, Humboldt, Children & Families Commission First 5 Literature Packet - Spanish
Imperial	No	
Inyo	No	
Kern	No	
Kings	No	
Lake	No	
Lassen	No	
Los Angeles	No	
Madera	No	
Marin	No	
Mariposa	No	
Mendocino	No	

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County	Customize Yes/No	Customized Components
Merced	Yes	Blocks, Merced, Colored Clown Plastic Blocks (6) – English
	Yes	Toothbrush, Merced, Plak Smacker Dinosaur Travel Pack
Modoc	Yes	Bib, Modoc, Back To Sleep First 5 Modoc – English
	Yes	Bib, Modoc, Dormir Boca Arriba First 5 Modoc – Spanish
Mono	No	
Monterey	No	
Napa	No	
Nevada	No	
Orange	Yes	Thermometer, Orange, Basic Digital Thermometer
	Yes	Manual, Orange, What To Do When Your Child Gets Sick - English
	Yes	Pamphlet, Orange, Strong Families Resource Guide - English
	Yes	Brochure, Orange, Breastfeeding: For all the right reasons - English
	Yes	Manual, Orange, Que Hacer Cuando Su Nino Se Enfereme - Spanish
	Yes	Pamphlet, Orange, Guia de Recursos Para Familias Fuertes - Spanish
	Yes	Brochure, Orange, Dandole a su bebe el pecho: Todas las razones correctas
Placer	No	
Plumas	No	

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County	Customize Yes/No	Customized Components
Riverside	Yes	Guide, Riverside, Little Steps for New Parents - English
	Yes	Envelope Pack, Riverside, Bundle of Literature - English
	Yes	Label, Riverside, Look Inside First 5 Riverside - English
	Yes	Envelope Pack, Riverside, Bundle of Literature - Spanish
	Yes	Label, Riverside, Mire Adentro First 5 Riverside - Spanish
Sacramento	Yes	Brochure, Sacramento, Investing in our youngest children NOW - Bilingual
	Yes	Velcro Folder, Sacramento, First 5 Sacramento velcro folder with Resource Information - English
	Yes	Velcro Folder, Sacramento, Primeros 5 Sacramento velcro folder with Resource Information - Spanish
San Benito	No	
San Bernardino	Yes	Burp Cloth, San Bernardino, Back To Sleep/Dormir Boca Arriba Burp Cloth - Bilingual
San Diego	Yes	Pre-assembled Packet, San Diego, Clear Plastic Bag w/ Literature and Clip - English
	Yes	Flyer, San Diego, Regional Perinatal Systems Phone Number Change (blue) - Eng
	Yes	Pre-assembled Packet, San Diego, Clear Plastic Bag w/ Literature and Clip - Spanish
	Yes	Flyer, San Diego, El numero de telefono de Regional Perinatal System ha cambiado (pink) - Spanish

**EXHIBIT A-2
 (Standard Agreement)**

**EXAMPLE
 Previous County Commissions Custom Kit Specifications**

County	Customize Yes/No	Customized Components
San Francisco	No	
San Joaquin	Yes	Bag, San Joaquin, First 5 San Joaquin Blue Bag
San Luis Obispo	No	
San Mateo	Yes	Pouch, San Mateo, Child I.D. Kit
	Yes	Toothbrush, San Mateo, Infant-Toddler Safety Toothbrush
	Yes	Label, San Mateo, Felicidades Sticker (in Spanish, but for English <i>Kits</i>) - English
	Yes	Book, San Mateo, Community Information Handbook 2006 - English
	Yes	Guide, San Mateo, Guia De Recursos Comunitarios - Spanish
	Yes	Toothbrush, San Mateo, Blue Safety Toothbrush - Spanish
Santa Barbara	No	
Santa Clara	Yes	Packet, Santa Clara, Colored Plastic Envelope w/ Toothbrush and Pamphlets - Eng
	Yes	Packet, Santa Clara, Colored Plastic Envelope w/ Toothbrush and Pamphlets - Spanish
Santa Cruz	Yes	Envelope Pack, Santa Cruz, Bundle of Literature - English
		Envelope Pack, Santa Cruz, Bundle of Literature - Spanish

**EXHIBIT A-2
 (Standard Agreement)**

**EXAMPLE
 Previous County Commissions Custom Kit Specifications**

County	Customize Yes/No	Customized Components
Shasta	Yes	Pre-assembled Envelope, Shasta, White Envelope w/ Literature - English
	Yes	Pre-assembled Envelope, Shasta, White Envelope w/ Literature - Spanish
Sierra	No	
Siskiyou	No	
Solano	Yes	Auto Sun Shade, Solano, First 5 Solano It's All About The Kids
	Yes	Card, Solano, Access Laminated Card w/phone numbers - English
	Yes	Onesie, Solano, Tummy-to-Play First 5 Solano - English
	Yes	Card, Solano, Access Laminated Card w/phone numbers - Spanish
	Yes	Onesie, Solano, Boca Abajo para Jugar First 5 Solano - Spanish
Sonoma	Yes	Pre-assembled Packet, Sonoma, White Plastic Bag w/ Literature - English
	Yes	Tri-Fold Brochure, Sonoma, Families First, For First-Time Parents in Sonoma County - English
	Yes	Pre-assembled Packet, Sonoma, White Plastic Bag w/ Literature - Spanish
	Yes	Tri-Fold Brochure, Sonoma, Las Familias son Primero - Visitas Gratis - Spanish
Stanislaus	No	
Sutter	No	
Tehema	No	

**EXHIBIT A-2
 (Standard Agreement)**

**EXAMPLE
 Previous County Commissions Custom Kit Specifications**

County	Customize Yes/No	Customized Components
Trinity	No	
Tulare	No	
Tuolumne	Yes	Guide, Tuolumne, Resource Directory for Family Service in Tuolumne County - English
	Yes	Video, Tuolumne, Window of Opportunity - Reducing Children's Exposure to Violence - English
	Yes	Guide, Tuolumne, What To Do When Your Child Gets Sick - English
Ventura	Yes	Window Shade, Ventura, Mesh Side Window Shade
Yolo	Yes	Assy, Yolo, Bag with Medicine Spoon & Outlet Plugs - English
	Yes	Envelope Pack, Yolo, Literature Pack - English
	Yes	Assy, Yolo, Bag with Medicine Spoon & Outlet Plugs - Spanish
	Yes	Envelope Pack, Yolo, Literature Pack - Spanish
Yuba	No	

**EXHIBIT A-3
 (Standard Agreement)**

CONTRACTOR BUSINESS LOCATION(S)

Specify the location where administration, fulfillment, and warehouse services will be provided. For example, if administrative work and Information Technology components will be provided in a location separate from warehousing, specify the complete address(es) of the facility(ies) where each service will be provided. Facilities must be located within a 20-mile radius from each location listed below.

Street Address:		
City:	State:	Zip Code:
Type of Service to be Provided:		

Street Address:		
City:	State:	Zip Code:
Type of Service to be Provided:		

Street Address:		
City:	State:	Zip Code:
Type of Service to be Provided:		

Street Address:		
City:	State:	Zip Code:
Type of Service to be Provided:		

Street Address:		
City:	State:	Zip Code:
Type of Service to be Provided:		

**EXHIBIT B
(Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the contractor at the rates specified in Exhibit B-2, Cost Sheet as follows:

- Rate for Basic *Kit*
- Rate for Custom *Kit*
- Actual monthly per pallet warehouse cost
- Actual shipping cost
- Per pallet handling fee for pre-built *Kits*
- **Per Electronic Data Interchange/Phone Order and Shipment Processing Cost for pre-built *Kits***

B. Invoices shall include the following:

- Agreement Number
- Invoice number
- Date of Invoice
- Period for which the invoice covers
- Signature for the authorized person; both written and printed
- Overview page with what is included in the invoice (summary)
- Supporting documentation with supporting details, pages to be numbered

If contractor has more than one Agreement with First 5 California, contractor must properly identify the Agreement with the name and number of the respective contract, and submit proper documentation with each invoice for charges incurred listing services and costs for each charge specific to said contract.

The State will honor cash discounts and will make payment to the contractor in accordance with the cash discount terms specified on the invoice, or when applicable, as provided in Exhibit B-2, Cost Sheet. If a cash discount is offered on both the invoice and Cost Sheet, First 5 California shall apply the greatest discount offered, provided requirements of the Agreement have been met. Discounts must be a minimum of one-half of 1 percent of the amount due, but not less than \$5.00 (SAM 8113).

**EXHIBIT B
(Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

Invoices shall be submitted in duplicate no more frequently than monthly in arrears to:

First 5 California
Attention: Accounting Services
2389 Gateway Oaks Drive, Suite 260
Sacramento, CA 95833-4270

- C. If an invoice is disputed, the contractor will be notified within fifteen (15) working days of receipt of the invoice. The contractor will be informed of the reason for the dispute and the disposition of the invoice. If the invoice is corrected, notification will be verbal and will not stop the payment process. However, if the invoice is unacceptable and cannot be processed, the issuance of a written dispute will stop the clock for prompt payment, and processing will not be restarted until the corrected invoice is returned to First 5 California.
- D. The contractor must submit with the Final Invoice for this Agreement a signed Contractor's Release Form provided by First 5 California.

2. Budget Contingency Clause

- A. This Agreement is valid and enforceable only if sufficient funds are available in the appropriate account of the California Children and Families Trust Fund with which to carry out the purposes of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Legislature, or any statute enacted by the Legislature, that may affect the provisions, terms or funding of this Agreement in any manner.
- B. Contractor understands and agrees that this Agreement is subject to the condition that sufficient funds are available in the appropriate account of the California Children and Family Trust Fund. If sufficient funds are not available in the appropriate account of the California Children and Families Trust Fund due to a decrease in projected tax revenue collected pursuant to Revenue and Taxation Code section 30131.2, this Agreement shall be invalid and of no further force and effect. In this event, the State of California and/or First 5 California shall have no liability to pay any funds whatsoever to the contractor, or to furnish any other considerations under this Agreement and the contractor shall not be obligated to perform any provisions of this Agreement.

**EXHIBIT B
(Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

3. Payment

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**EXHIBIT B-1
(Standard Agreement)**

ADDITIONAL BUDGET DETAIL AND PAYMENT PROVISIONS

1. Fiscal Year Rollover of Funds

Funds approved for expenditure in the current Fiscal Year (FY) that are not fully expended may be continuously rolled over to subsequent FYs to accomplish the scope of work, up to the maximum term of the Agreement.

2. Contractor Overpayments

If it is determined that an overpayment has been made to the contractor, First 5 California will seek recovery immediately upon discovery of overpayment by a written request to the contractor for a refund of the overpayment amount. If contractor repayment is not received within thirty (30) days from the date of the overpayment written request, First 5 California may offset subsequent contractor payments by the amount of the overpayment.

3. Accounting Requirements

Contractor shall establish an accounting system using generally accepted accounting principles that will provide information for reports to the State and which will provide documentation for the fiscal activities of the organization related to this Agreement. The accounting system must include adequate cost accounting procedures that will provide accurate costing for contractual amendments, and for any other costs incurred which relate to payment claimed by contractor.

4. Fiscal Audits

First 5 California or any duly authorized representative shall have access and the right to examine, audit, review, excerpt, and transcribe any books, documents, papers, or records of the contractor and/or subcontractor which in the opinion of the State may be related or pertinent to this Agreement. Such material for each year of the contract must be retained for a period of three (3) years after the termination of the contract or until an audit is completed by the State and all questions arising there from are resolved. An exception to the three-year statute is when a contract audit is in dispute or litigation. In those instances, the retention period for records is extended.

Audits and reviews may be conducted at any time during the performance of the contract or during the three (3) years following the completion of the contracting

**EXHIBIT B-1
(Standard Agreement)**

ADDITIONAL BUDGET DETAIL AND PAYMENT PROVISIONS

period. Actual costs incurred by the contractor for expenses should be substantiated with appropriate source documentation. It is the contractor's responsibility to ensure that all expenditures claimed, including all subcontractor expenditures, are allowable costs associated in performing the contracted services.

If the contractor/subcontractor received payments that are determined to be unallowable, in addition to any other remedies the State may have, the State may withhold payments from the contractor to recover these costs. In addition to any other remedies the State may have, the State reserves the option to collect any unallowable cost from the contractor in monthly installments.

If disallowed or questionable costs are found, a draft report will be issued to the contractor for review and comment. The contractor will have 30 days to submit written comments and/or supply additional source documentation to the State for consideration in preparing the final report. The parties hereto mutually agree that the resolution of any issues pertaining to audits shall be resolved.

5. Actual and Allowable Costs

Actual costs incurred by the contractor that are allowable costs shall be substantiated with appropriate source documentation such as invoices and receipts.

The contractor must retain files in the contractor's headquarters office based in California, or at the program service location where services are being provided. All support documentation must be retained for actual expenses incurred in the performance of this Agreement for auditing purposes and for program review, as required in the fiscal audit provision of this Agreement.

Allowable costs for this Agreement shall be limited to those expenditures which are: (1) in conformance with the approved contract budget and have specific prior approval when required; and (2) for goods and services necessary to the project's operation at the time the costs are incurred. Any expenses not meeting these criteria may be disallowed.

6. Extension of Term

This Agreement may be amended to extend the term if it is determined to be in the best interest of the state. Upon signing the amendment, contractor hereby agrees to provide services for the extended period at the rates and terms specified in the original Agreement.

**EXHIBIT B-1
(Standard Agreement)**

ADDITIONAL BUDGET DETAIL AND PAYMENT PROVISIONS

7. Line Item Category/Budget Changes

Change of line item category costs set forth in Exhibit B-2 that do not result in adjustments of more than 10 percent (10%) in any category must be requested in advance by the contractor, in writing, and approved by the First 5 California program manager. Changes that exceed 10 percent (10%) in one or more categories must be completed through a formal amendment to the Agreement and shall be approved by the Department of General Services (DGS), Office of Legal Services, or First 5 California, under the delegated authority of DGS. Written requests shall include a reason for the change, identification of the line item categories to be changed, and a revised budget. The State reserves the right to deny any request for line item transfers, additions, or deletions.

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. The State may pay any applicable sales and use tax imposed by another state.

2. Conflict of Interest

A. The State intends to avoid conflicts of interest or the appearance of conflicts of interest on the part of the contractor, subcontractors, or employees, officers, and directors of the contractor or subcontractors. Thus, the State reserves the right to determine, at its sole discretion, whether any information received from any source indicates the existence of a conflict of interest.

B. If the State becomes aware of a known or suspected conflict of interest, the contractor or subcontractor will be given an opportunity to submit additional information or to resolve the conflict. A contractor or subcontractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by the State to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by the State and cannot be resolved to the satisfaction of the State, before or after the award of the Agreement, the conflict will be grounds for termination of the Agreement.

3. Resolution of Disputes

First 5 California shall be the sole judge of the acceptability of all work performed by the contractor. Should the work performed by the contractor fail to meet the minimum First 5 California conditions, requirements, or other applicable standards, specifications or guidelines, the following resolution process shall be employed:

- (a) The First 5 California program manager shall notify the contractor in writing within fifteen (15) business days after any acceptance problems by identifying the specific inadequacies and/or failures in the services performed by the contractor.
- (b) The contractor shall, within five (5) business days after initial problem notification, respond to the First 5 California program manager by submitting a detailed explanation describing precisely how the identified services actually adhere to and satisfy all applicable requirements, and/or a proposed corrective action plan

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

to address the specific inadequacies and/or failures in the identified services. Failure by the contractor to respond to the First 5 California program manager's initial problem notification within the required time limits may result in immediate contract termination. In the event of such termination, First 5 California shall pay all amounts due to the contractor for all work accepted prior to termination.

- (c) First 5 California shall, within five (5) business days after receipt of the contractor's detailed explanation and/or proposed corrective action plan, notify the contractor in writing whether it accepts or rejects the explanation and/or plan. If First 5 California rejects the explanation and/or plan, the contractor shall submit a revised corrective action plan within three (3) business days of notification of rejection. Failure by the contractor to respond to the First 5 California notification of rejection by submitting a revised corrective action plan within the required time limit may result in immediate contract termination. In the event of such termination, First 5 California shall pay all amounts due to the contractor for all work accepted prior to termination with proper documentation.
- (d) First 5 California shall, within three (3) business days of receipt of the revised corrective action plan, notify the contractor in writing whether it accepts or rejects the revised corrective action plan proposed by the contractor. Rejection of the revised corrective action plan shall result in immediate contract termination. In the event of such termination, First 5 California shall pay all amounts due to the contractor for all work accepted prior to termination.

4. Subcontractors and Vendors

- A. As used in this Agreement, the term "subcontractor" shall include any individual or entity that enters into a written subcontract with the contractor for performance of any part of this Agreement.
- B. No portion of the work under this Agreement may be subcontracted by the contractor without the express written consent of First 5 California. The contractor shall submit to the First 5 California program manager the final written subcontract and the subcontractor's Conflict of Interest Certificate prior to commencing work under the subcontract. In its discretion, First 5 California may approve commencement of work by a subcontractor prior to receipt of these documents, but such approval shall be contingent upon the review and approval of the final written subcontract and the subcontractor's Conflict of Interest Certificate within five (5) business days of commencement of work.

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

If a subcontractor's final written subcontract and Conflict of Interest Certificate were included with the materials submitted by a successful bidder pursuant to a competitive bid process, no additional written approval of that subcontractor is required, absent material change in the subcontract's terms, or the scope or nature of work to be performed by the subcontractor.

If the contractor adds a new subcontractor or substitutes an existing subcontractor, the contractor shall attempt to obtain at least three (3) formal written bids for subcontracts of \$5,000 or more. Documentation shall include an advertisement, bids received, etc., and shall be kept with the contractor and made available upon request for audit purposes. Contractor shall ensure that at least three (3) informal bids are obtained for subcontracts less than \$5,000. An informal bid can be documented by verbal quote. If less than three (3) informal bids are unattainable in either formal or informal bid solicitations, then contractor shall document why they were unattainable. All subcontracts shall be awarded to the lowest bidder, unless the contractor submits to First 5 California a justification for award to the second lowest bidder and obtains prior written approval to award the subcontract. Any amendments to approved subcontractors shall be justified through the Non-Competitively Bid (NCB) process if a material change is made to the scope of work, and/or additional funding exceeds 30 percent (30%) of the subcontracted amount and/or the term is extended for a period of time longer than one year.

It is the contractor's responsibility to promptly alert First 5 California to any material changes, as described above, in any subcontractor's responsibilities or subcontract.

C. No subcontract entered into by the contractor under this Agreement shall in any way release the contractor from any term or provision of this Agreement.

5. Potential Subcontractors

Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the contractor of its responsibilities and obligations hereunder. The contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the contractor.

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

The contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

6. Subcontracting Activities

For Agreements with other governmental entities and public universities where subcontractors or subcontracted services were not identified or identified as 'To be Determined' at the time of contract execution and the resulting subcontract, or cumulative subcontract(s), exceeds \$50,000 or 25 percent (25%) of the total amount of the Agreement, whichever is less, the prime contractor must secure a minimum of three (3) bids or justify a NCB award, unless the subcontract is exempt under the State Contract Manual (SCM), Section 3.06 D. If the bid required specific evaluation criteria, a minimum of 30 percent (30%) of the points shall be allocated to cost. Subcontracts shall be awarded to the lowest responsible bidder, or under an approved evaluation criteria, and the prime contractor shall make all efforts to comply with the State of California's Disabled Veteran Business Enterprise (DVBE) participation program. Adequate justification must be submitted to First 5 California if the contractor selects a consultant/subcontractor based on a NCB or specific criteria.

Any amendments to approved subcontractors shall be justified through the NCB process if a material change is made to the scope of work, and/or additional funding exceeds 30 percent (30%) of the subcontracted amount, and/or the term is extended for a period of time longer than one year.

It is the prime contractor's responsibility to prevent any material changes to the subcontract. Should First 5 California detect a material change in a subcontractor's responsibilities while reviewing and approving invoices, First 5 California may delay payment and dispute charges. For payment to be approved, First 5 California and the prime contractor must resolve the issues by amending the subcontract and/or updating the work plan; otherwise, charges will be disallowed.

Consistent with SCM, Section 3.06, First 5 California must assure that all administrative fees are reasonable considering the services being provided. First 5 California may only pay overhead charges (including indirect costs) on the first \$25,000 for each subcontract.

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(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

7. Substitution of Disabled Veteran Business Enterprise Subcontractors

In the event this Agreement was awarded based on a commitment to subcontract a portion of the total amount of the Agreement to a DVBE identified in the bid or offer, per Military and Veterans Code (M&VC) Section 999.5 (e), the contractor's DVBE subcontractor may replace or substitute the DVBE subcontractor only with another DVBE subcontractor. This shall require the approval of DGS prior to commencement of subcontract services. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer that are approved for DVBE substitutions by DGS will be documented by a contract amendment.

Failure of contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under right and remedies due to the State, and penalties as outlined in M&VC Section 999.9; or Public Contract Code (PCC Section 10115).

It will be the responsibility of First 5 California to forward requests to substitute DVBE subcontractors to DGS.

8. DVBE Participation Reports

If, for this Agreement, the contractor made a commitment to achieve DVBE participation, then the contractor shall submit reports twice a year during the month of January and July for the term of the Agreement to the First 5 California program manager. The reports shall certify the following:

- A. The total amount the prime contractor received under the contract.
- B. The name and address of the DVBE(s) that participated in the performance of the Agreement.
- C. The amount each DVBE received from the contractor.
- D. Certification that all payments under the contract have been made to the DVBE(s).
- E. The actual percentage of DVBE participation that was achieved.

A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation, (M&VC) Section 999.5(d).

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

9. Amendments

- A. This Agreement may be amended only by mutual written consent of the parties signed by each party's authorized representative or his/her designee or successor. No alternative or variation of the terms of this Agreement will be valid or binding unless so made and no prior oral understanding or Agreement not incorporated herein is binding on any of the parties hereto.
- B. If this Agreement was awarded with a commitment to subcontract a percentage of the total amount of the Agreement to a DVBE and is amended during the term to increase the total amount of the Agreement, the contractor shall certify that the percentage specified to be subcontracted in the DVBE Worksheets shall be applied to the amended dollars.
- C. This Agreement may be amended to extend the term if it is determined to be in the best interest of the State. Upon signing the amendment, contractor hereby agrees to provide services for the extended period at the rates and terms specified in the original Agreement, or any subsequent amendment.

10. Confidentiality

- A. All data and information related to First 5 California operations, which are designated confidential by First 5 California or developed by the contractor and deemed confidential by First 5 California, shall be properly safeguarded and protected by the contractor from unauthorized use and disclosure. At a minimum, during non-working hours, First 5 California paper and or electronic documents, reference materials, or any materials related thereto shall be kept in a locked, secure place. All electronic data shall be password protected and secure at all times.
- B. The contractor and its employees are hereby considered agents only for confidential data purposes and will be liable under the State and Federal statutes for unauthorized disclosures. In the event of subcontracting, the subcontractor and its employees will also be considered agents only for confidential data purposes, and will be held liable under said state and federal statutes.
- C. The contractor and all subcontractors shall immediately notify First 5 California of any request from a third party for disclosure of any information relating to this Agreement, including, but not limited to, subpoena, deposition proceedings, court

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

order or other legal action. Unless the First 5 California program manager authorizes the disclosure of the information in writing, the contractor and all subcontractors shall use every means, to the maximum extent permitted by law and at no cost to the State, to protect the information from disclosure.

11. Lobbying, Political Activities, and Politicians

A. The contractor shall not use Agreement funds for direct or indirect lobbying.

(1) Direct lobbying, for the purposes of this Agreement, is defined as any explicit attempt to promote a yes or no vote on a specific piece of legislation, local ordinance or ballot measure through any oral, written or other form of communication with any member or employee of a legislative body, or any government official or employee who participates in the formulation of, or decision-making regarding that specific piece of legislation, local ordinance, or ballot measure.

(2) Indirect lobbying, for the purposes of this Agreement, is defined as any oral or written communication to the general public or any segment of the general population which explicitly attempts to promote a yes or no vote on a specific piece of legislation, local ordinance, or ballot measure by encouraging the recipients of the communication to attempt to influence a legislator or an employee of a legislative body or any other government official or employee who participates in the formulation of, or decision-making regarding that legislation, local ordinance, or ballot measure.

B. The contractor shall not use Agreement funds to promote a yes or no vote on a ballot measure.

C. The contractor shall not use Agreement funds to promote, directly or indirectly, any candidate for an elective public office.

D. The contractor and its subcontractors shall not feature the image or voice of any elected public official or candidate for public office, nor shall the contractor and its subcontractors directly represent the views of any elected public official or candidate for public office, in any work generated by this Agreement.

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

12. Termination for Convenience

First 5 California retains the option to terminate this Agreement without cause at First 5 California's convenience, provided that written notice has been delivered to the contractor at least thirty (30) calendar days prior to such termination date. If First 5 California terminates this Agreement at its convenience, the contractor will be entitled to compensation upon submission of an invoice and proper proof of claim, in that proportion which its services and products were satisfactorily rendered or provided and its expenses necessarily incurred pursuant to this Agreement, up to the date when notice of termination is received by the contractor (hereinafter referred to as "the notice date"). In such event, at the request of First 5 California, the contractor shall furnish copies of all proposals, specifications, designs, procedures, layouts, copy, and other materials related to the services or deliverables provided under this Agreement, whether finished or the work is in progress on the termination date. The contractor will not be entitled to reimbursement for any expenses incurred for services and deliverables pursuant to the Agreement after the notice date, unless the contractor receives written advance approval from the State. Any services or deliverables for which the contractor is paid which are provided according to the procedures in this paragraph shall become the property of First 5 California.

13. Termination without Cause

First 5 California reserves the right to terminate this Agreement subject to 30 calendar day's written notice to the contractor. Any termination shall be effected by written notice to the contractor, either hand-delivered or sent certified mail, return receipt requested. The notice of termination shall specify the effective date of termination.

Upon receipt of notice of termination, and except as otherwise directed in the notice, the contractor shall:

- A. Stop work on the date specified in the notice.
- B. Place no further orders or enter into any further subcontracts for materials, services, or facilities except as necessary to complete work under the Agreement up to the effective date of termination.
- C. Terminate all orders and subcontracts.

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

- D. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to, reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts.
- E. Deliver or make available to First 5 California all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the contractor under this Agreement, whether completed, partially completed, or in progress.
- F. Contractor shall transfer, assign, and make available to First 5 California all property and materials belonging to First 5 California, all rights and claims to any and all reservations, Agreements, and arrangements with owners of media/public relations (PR) materials, or others and shall make available to First 5 California all written information regarding First 5 California's media/PR materials, and no extra compensation is to be paid to contractor for its services in connection with any such transfer or assignment.

In the event of termination, an equitable adjustment in the price provided for in this Agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials supplied, and expenses incurred pursuant to this Agreement prior to the effective date of termination. (California Public Contract Code Section 10253 and California Government Code Section 11010.5)

14. Responsibilities Upon Termination

After receipt of notification of termination of this Agreement, and except as otherwise specified by the State, the contractor shall stop work under this Agreement on the date specified in the written notice of termination. The contractor shall do all of the following:

- A. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Agreement that is not terminated.
- B. Assign to the State, effective on the date of termination, in the manner, and to the extent specified by the State all of the rights, titles, and interests for the contractor under the orders and subcontracts terminated, in which case the State

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SPECIAL TERMS AND CONDITIONS

has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts and reduce any settlement amount determined by the amount paid for such orders or subcontracts.

- C. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent the State may require. The State's approval or ratification shall be final for the purposes of this section.
- D. Upon the effective date of termination of the Agreement and payment of all items properly chargeable to the State hereunder, contractor shall transfer, assign, and make available to the State all property and materials belonging to the State and no extra compensation is to be paid to the contractor for its services in connection with any such transfer or assignment.
- E. Take such action as may be necessary, or as the State may specify, to protect and preserve any property related to this Agreement that is in the possession of the contractor and in which the State has or may acquire an interest.

15. Insurance Requirement

The contractor hereby represents and warrants that the contractor is currently, and shall for the duration of this Agreement, including any extension in the term, be insured against commercial property, commercial general, workers compensation, and employee dishonesty insurance. Contractor agrees to carry a minimum coverage of \$5,500,000 for commercial property with special form coverage and no co-insurance. Commercial general liability with a limit of no less than \$1,000,000 per occurrence. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal injury, advertising injury and all liability assumed under and insured contract. Employee dishonesty insurance with a limit of no less than \$100,000 per loss. Both the commercial property and employee dishonesty policies shall name First 5 California as loss payee. Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required. Contractor shall provide a waiver of subrogation in favor of the State for the workers' compensation policy.

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(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

The certificate of insurance must include the following provisions:

“The insurer will not cancel the insured’s coverage without thirty (30) days prior written notice to the State; and

The State of California, its officers, agents, employees, and servants are hereby named as additional insured but only with respect to work performed for the State of California.”

The contractor shall be responsible for any deductibles included in the insurance policies.

First 5 California must be named as the “Certificate Holder” as follows:

State of California
First 5 California
2389 Gateway Oaks Drive, Suite 260
Sacramento, CA 95833

Contractor agrees that the liability insurance herein provided for shall be in effect at all times during the term of this Agreement. If insurance coverage expires at any time during the term of this Agreement, contractor agrees to provide, at least thirty (30) calendar days before said expiration date, a new Certificate of Insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement or for a period of not less than one (1) year. New Certificates of Insurance may be subject to the approval of the Department of General Services (DGS), Office of Risk and Insurance Management; contractor agrees that no work or services shall be performed prior to such approval. The State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

Such coverage(s) as referenced herein shall be a condition of First 5 California’s obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, contractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a “true and certified” copy of the policy, or any other proof of coverage issued by contractor’s insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State

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does not convey any rights or privileges to First 5 California. It does, however, serve to provide the State with proof that the contractor is insured up to the required minimums, as required by the State. First 5 California and the DGS reserve the right to verify the contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the contractor fails to keep in effect at all times insurance coverage as herein provided, the State reserves the right to terminate this Agreement and seek any other remedies afforded by the laws of this State.

16. Ownership of Products

Notwithstanding whether or not it may be the subject of a patent or a copyright and or whether or not it is tangible or intangible or intellectual, all products, deliverables, or any like items that are produced, created, developed, or the like, during the term of this Agreement shall immediately become the sole and complete property of the State upon their creation.

17. Information Security Incidents

Contractor agrees to notify the First 5 California program manager in writing via e-mail of any use or disclosure of information not provided for by this Agreement of which it becomes aware, within three (3) working days of initial detection. Written reports of information security incidents shall contain information on the incident (e.g., hacking, virus, theft), description of the information that was compromised and classification of the information (e.g., confidential, sensitive, personal). The system or device affected by an information security incident shall be removed from operation immediately. It shall remain removed from operation until correction and mitigation measures have been applied.

18. News Release and Publicity

The contractor shall not issue any news release or make any statement to the news media regarding the products or materials created pursuant to this Agreement, operational procedures of this Agreement, the meetings or decisions related to this Agreement, or to the status of work related to this Agreement without prior written approval of First 5 California.

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19. Recycled Project Content

Contractor is required to use recycled paper only, unless proposed job (e.g., printing) cannot be done on recycled paper. Contractor must also certify in writing, upon completion of performance under the Agreement, the minimum percentage, or the exact percentage of post-consumer or secondary materials provided or used in the services provided under the Agreement. This certification must be signed under penalty of perjury. Contractor may use and request Form CIWMB 74 from the First 5 California program manager for certification purposes.