

AGENCY AGREEMENT

between

SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH

and the

TULARE COUNTY SUPERINTENDENT OF SCHOOLS

For TCOE Office Use

Vendor # _____

Req. # _____

PO # _____

Contract # 2103103

BACKGROUND: The Tulare County Superintendent of Schools through its program, the California Friday Night Live Partnership (collectively referred to as "CFNLP"), wishes to enter into an agreement with San Bernardino County Department of Public Health (collectively referred to as CONTRACTOR) for a maximum amount of \$9,000.00 to support the implementation of underage drinking prevention or traffic safety promotion campaign(s). The CFNLP has an agreement with the California Office of Traffic Safety (OTS) to administer project-based contracts.

TERM: This Agreement will become effective as of October 1, 2020 and will expire on September 30, 2021, unless otherwise terminated as provided in this Agreement.

SCOPE OF WORK: CONTRACTOR will deliver:

1. Implementation of 1 comprehensive underage drinking prevention campaign per site, over the course of the project term. The sites that will implement this project are:
 - i. Operation New Hope
 - ii. Adelanto High School
 - iii. Granite Hills High School
2. Participation in technical assistance calls with CFNLP, to support and ensure successful project implementation throughout the project term.
3. The Primary Prevention Substance Use Disorder Data System (PPSDS) must be up to date for each contracted site, in accordance with reporting deadlines.

SPECIFIC CONTRACT REQUIREMENTS:

1. CONTRACTOR must submit all products developed under this agreement such as identity/promotional items, brochures, printed materials, posters, etc., to the CFNLP for pre-approval for production of products. CFNLP reserves the right to withhold reimbursement for items not approved.
2. CONTRACTOR understands all work performed by CONTRACTOR under this agreement is deemed "work made for hire" (work) under the Copyright Act and CONTRACTOR assigns all rights, title and interest to CFNLP to any work product made, conceived, derived from, or reduced to practice by CONTRACTOR, OTS and which result directly or indirectly from this Agreement. CONTRACTOR acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the property of CFNLP.
3. OTS shall be and remain, without additional compensation, the owners of any and all rights, title, and interest in all intellectual property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by CONTRACTOR, CFNLP and which result directly or indirectly from this Agreement. CONTRACTOR agrees to execute all papers and to perform such other proper acts as CFNLP may deem necessary to secure for CFNLP or its designee the rights herein assigned.
4. Funds provided through this contract shall not be budgeted or spent on capital improvements, equipment over \$5,000, or entertainment.
5. Awards from this Request for Application (RFA) are valid and enforceable only if sufficient funds are made available from OTS for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the State Legislature or any

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statute enacted by the State Legislature which may affect the provisions, terms, or funding of this contract in any manner. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, awards shall be amended to reflect any reduction in funds.

6. Ensure that Friday Night Live Standards of Practice are utilized throughout all stages of the project.

BUDGET: \$9,000.00

CONTRACTOR is eligible for up to \$9,000.00 for work performed under this Agreement. Payments will be made when evidence is provided that all deliverables have been completed, on a project-by-project basis.

INVOICES: CONTRACTOR shall submit a final invoice upon the completion of deliverables. Invoices are due on or before **OCTOBER 15, 2021**. CONTRACTOR shall send invoices by:

MAIL	EMAIL	FAX
TO: Tulare County Office of Education California Friday Night Live Partnership Attn: Azulie Wilson 6200 South Mooney Blvd., PO Box 5091 Visalia, California 93278-5091	azulie.wilson@tcoe.org	(559) 737-4231

PROGRESS TOWARD DELIVERY REPORTS: CONTRACTOR will provide quarterly Progress Toward Delivery Reports that include the activities that are outlined in the Scope of Work. CONTRACTOR must also report quarterly in the Primary Prevention Substance Use Disorder Data System (PPSDS) by the due dates outlined below. Failing to satisfactorily make progress toward deliverables may be cause for withholding payment and jeopardize the grant award. CFNLP will not make final payment until CONTRACTOR has submitted all work in a complete and acceptable form. Quarterly Progress Toward Delivery Report due dates are as follows:

Reporting Period 1: October 1, 2020 – December 31, 2020
REPORT DUE JANUARY 15, 2021

Reporting Period 2: January 1, 2021 – March 31, 2021
REPORT DUE APRIL 15, 2021

Reporting Period 3: April 1, 2021 – June 30, 2021
REPORT DUE JULY 15, 2021

Reporting Period 4: July 1, 2021 – September 30, 2021
FINAL REPORT DUE OCTOBER 15, 2021

MODIFICATIONS: Necessary changes or modifications to this Agreement, including adjustment of deliverable activities, can be made to this agreement by mutual written consent of both parties, provided changes are made **prior** to the execution of any activity.

INDEPENDENT CONTRACTOR STATUS: This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent CONTRACTOR. Nothing in this Agreement shall be construed to constitute CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of CFNLP. CONTRACTOR agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of CFNLP. Subject to any performance criteria contained in this Agreement, CONTRACTOR shall be solely responsible for determining the means and methods of performing the specified services and CFNLP shall have no right to control or exercise any supervision

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over CONTRACTOR as to how the services will be performed.

INDEMNIFICATION: CFNLP and CONTRACTOR shall hold each other harmless, defend and indemnify their respective agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of CFNLP or CONTRACTOR or their agents, officers and employees under this Agreement. This indemnification shall be provided by each party to the other party regarding its own activities undertaken pursuant to this Agreement, or as a result of the relationship thereby created, including any claims that may be made against either party by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, or any claims made against either party alleging civil rights violations by such party under Government Code section 12920 et seq. (California Fair Employment and Housing Act). This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

NOTICES: Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

Tulare County Office of Education
California Friday Night Live Partnership
Attn: Azulie Wilson
6200 South Mooney Blvd., PO Box 5091
Visalia, CA 93278-5091
Fax: 559-737-4231
Confirmation of Receipt: 559-733-6496

San Bernardino County Department of Public
Health
Attn: Frank Becerra
340 N. Mountain View Ave.
San Bernardino, CA 92415
Confirming No: 909-387-4879

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

TERMINATION: This Agreement may be terminated by either party with or without cause at any time by providing thirty (30) days advance written notice to the other party.

RECORDS AND AUDIT: CONTRACTOR shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONTRACTOR shall make such records available within Tulare County to the designated public and private auditors of CFNLP and to their agents and representatives, for the purpose of auditing and copying such records for a period of five years from the date of final payment under this Agreement.

INSURANCE: Prior to approval of this Agreement by CFNLP, CONTRACTOR shall file with the Tulare County Superintendent of Schools evidence of the required insurance as set forth in Exhibit A attached.

CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 will not apply to address and interpret any uncertainty.

NO THIRD-PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

GOVERNING LAW: This Agreement is to be interpreted and governed under the laws of the State of

California without reference to California conflicts of law principles. The parties agree that this Agreement is made and shall be performed in Tulare County, California.

WAIVERS: The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

EXHIBITS AND RECITALS: The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY: This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court, or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases, the remainder of the Agreement will continue in full force and effect.

FURTHER ASSURANCES: Each party agrees to execute any additional documents and to perform any further acts as may be reasonably required to affect the purposes of this Agreement.

ASSURANCES OF NON-DISCRIMINATION: CONTRACTOR shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation. CONTRACTOR agrees to provide appropriate training to its employees regarding discrimination and sexual harassment issues and to promptly and appropriately investigate any allegations that any of its employees may have engaged in improper discrimination or harassment activities. CFNLP, in its sole discretion, has the right to require CONTRACTOR to replace any employee who provides services of any kind to CFNLP pursuant to this Agreement with other employees where CFNLP is concerned that its employees or clients may have been or may be the subjects of discrimination or harassment by such employees. The right to require replacement of employees as aforesaid shall not preclude CFNLP from terminating this Agreement with or without cause as provided for in this agreement.

ASSIGNMENT/SUBCONTRACTING: Unless otherwise provided in this Agreement, CFNLP is relying on the personal skill, expertise, training, and experience of CONTRACTOR and CONTRACTOR's employees and no part of this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of CFNLP.

DISPUTE RESOLUTION: If a dispute arises out of or relating to this Agreement or the breach of this Agreement, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator will be mutually selected by the parties, but in case of disagreement, the mediator will be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator will be split equally by the parties, otherwise, each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute. We hereby agree to this Agreement and certify that the agreements made here will be honored.

MEDIA REQUIREMENTS: The following requirements are for grant-related activities:

1. Send all grant-related activity press releases, media advisories, alerts and general public materials to the CFNLP at kellieg@tcoe.org.

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2. If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the CFNLP (kellie@tcoe.org) should be copied at the same time as the release is distributed to the press.
3. If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the CFNLP for approval. Optimum lead-time would be 14 days prior to the release distribution date, but should be no less than 8 working days prior to the release distribution date. This is because the CFNLP has to obtain approval from OTS.
4. **Use the following standard language in all press, media, and printed materials:** "Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration."
5. Email the CFNLP at least 40 days in advance, a short description of any significant grant-related event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
6. Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the CFNLP at kellie@tcoe.org for approval 18 days prior to the production or duplication.
7. Space permitting, include the OTS logo, on grant-funded print materials; consult the CFNLP for specifics and format-appropriate logos.
8. Contact the CFNLP, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated.

SIGNATURES:

Tim A. Hire,
Tulare County Superintendent of Schools

Date

Curt Hagman Chairman
San Bernardino County Board of Supervisors

Date