

AGENCY AGREEMENT

between

MENDOCINO COUNTY BEHAVIORAL HEALTH & RECOVERY SERVICES

and the

TULARE COUNTY SUPERINTENDENT OF SCHOOLS

For TCOE Office Use

Vendor # _____

Req. # _____

PO # _____

Contract # 220433

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 Mendocino County Behavioral Health & Recovery Services (collectively referred to as CONTRACTOR) for a maximum amount of \$11,000 to support the implementation of a Tobacco Advocacy Project. The CFNLP has an agreement with the California Department of Education (CDE) to administer project-based contracts.

TERM: This Agreement will become effective as of November 1, 2021 and will expire on June 30, 2022, unless otherwise terminated as provided in this Agreement.

SCOPE OF WORK: CONTRACTOR will deliver:

1. Implementation of one substantial, comprehensive tobacco advocacy project over the course of the project term. The purpose of the project is to provide young people in Club Live (CL) and/or Friday Night Live (FNL) chapters the opportunity to engage in advocacy and peer education efforts specific to tobacco and alternative tobacco products (e-cigs, vaping, etc.). Youth and their adult allies are free to choose the focus and desired outcomes of their efforts, and the strategies they will employ.
2. Participation in technical assistance calls as needed with the CFNLP, to support and ensure successful project implementation throughout the project term.
3. Submission of one project plan and timeline per contracted site, detailing project goals and strategies to be used to reach them, to be approved by the CFNLP.
4. The Primary Prevention Substance Use Disorder Data System (PPSDS) must be updated for each contracted site, in accordance with reporting deadlines (see "Progress Toward Deliver Reports, Reporting Periods).

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.
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, CDE 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. CDE 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.

Mendocino County Behavioral Health & Recovery Services

5. Awards from this Request for Application (RFA) are valid and enforceable only if sufficient funds are made available from CDE 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 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: \$11,000

CONTRACTOR is eligible for up to \$11,000 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 an invoice upon the completion of deliverables. CONTRACTOR shall send the invoice no later than **July 15, 2022** by one of the three following methods:

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 Progress Toward Delivery Reports that include the activities that are outlined in the Scope of Work. CONTRACTOR will submit final products from the appropriate period with progress reports. 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. The Progress Toward Delivery Report due dates are as follows:

Reporting Period 1: November 1, 2021– December 31, 2021

REPORT DUE JANUARY 15, 2022

Reporting Period 2: January 1, 2022 – March 31, 2022

REPORT DUE APRIL 15, 2022

Reporting Period 3: April 1, 2022 – June 30, 2022

REPORT DUE JULY 15, 2022

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 over CONTRACTOR as to how the services will be performed.

Mendocino County Behavioral Health & Recovery Services

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

Mendocino County Behavioral Health &
Recovery Services
Attn: Jenine Miller, Psy.D.
Behavioral Health Director
1120 S. Dora Street
Ukiah, CA 95482
707-472-2300

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 Superintendent of the District 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.

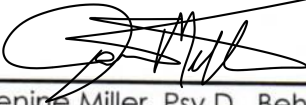
SIGNATURES:



Tim A. Hire,
Tulare County Superintendent of Schools

12/9/21

Date



Jenine Miller, Psy.D. Behavioral Health Director
Mendocino County Behavioral Health &
Recovery Services

1/25/22

Date

EXHIBIT A

INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his/her agents, representatives, employees or subcontractors, if applicable.

A. MINIMUM SCOPE & LIMITS OF INSURANCE

1. Coverage at least as broad as Commercial General Liability Insurance of \$1,000,000 combined single limit per occurrence. If the annual aggregate applies, it must be no less than \$2,000,000. (Applies to all contracts.)
2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence. (Applies when the contractor will be using an automobile to provide the services outlined in the contract.)
3. Workers' Compensation and Employer's Liability Insurance as required by law. (Applies to any business with employees.)
4. Professional Errors and Omissions Insurance of \$1,000,000. (Applies to architects, doctors, dentists, attorneys, and other contractors in similar professions.)

B. SPECIFIC PROVISIONS OF THE CERTIFICATE

1. The Certificate of Insurance for General Liability, Comprehensive Automobile Liability Insurance, and Professional Errors and Omissions Insurance must meet the following requirements:
 - a. Name the SUPERINTENDENT, its officers, agents, employees and volunteers, individually and collectively, as additional insureds.
 - b. State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by SUPERINTENDENT shall be excess.
 - c. Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the SUPERINTENDENT.

2. The Certificate of Insurance for Workers Compensation, must include the following waiver of subrogation:
 - a. Waiver of Subrogation. CONTRACTOR waives all rights against the SUPERINTENDENT and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

The SUPERINTENDENT Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. ACCEPTABILITY OF INSURANCE

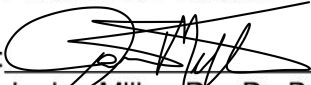
Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California, any waiver of these standards are subject to approval by the SUPERINTENDENT'S Risk Manager or designee.

E. VERIFICATION OF COVERAGE

Prior to approval of this Agreement by the SUPERINTENDENT, the CONTRACTOR shall file with the SUPERINTENDENT, certificates of insurance with original endorsements effecting coverage in a form acceptable to the SUPERINTENDENT. The SUPERINTENDENT reserves the right to require certified copies of all required insurance policies at any time.

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

By: 
Jenine Miller, Psy.D., Behavioral Health
Director

Date: 1/25/22

Budgeted: ☐ Yes ☒ No

Budget Unit: 4012

Line Item: 82-7700

Org/Object Code: DD0158

Grant: ☐ Yes ☒ No

Grant No.:

COUNTY OF MENDOCINO

By: _____
TED WILLIAMS, Chair
BOARD OF SUPERVISORS

Date: _____

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

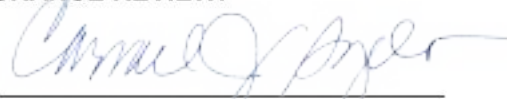
By: _____
Deputy

I hereby certify that according to the provisions of
Government Code section 25103, delivery of this
document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: _____
Deputy

INSURANCE REVIEW:

By: 
Risk Management

Date: 01/19/2022

CONTRACTOR/COMPANY NAME

By: See page 5
Tim A. Hire, Tulare County
Superintendent of Schools

Date: _____

NAME AND ADDRESS OF CONTRACTOR:

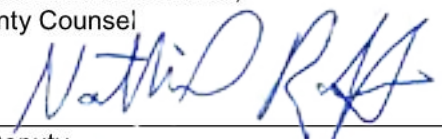
Tulare County Office of Education
6200 South Mooney Blvd., PO Box 5091
Visalia, CA 93278

By signing above, signatory warrants and
represents that he/she executed this Agreement in
his/her authorized capacity and that by his/her
signature on this Agreement, he/she or the entity
upon behalf of which he/she acted, executed this
Agreement

COUNTY COUNSEL REVIEW:

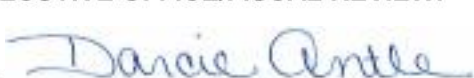
APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
County Counsel

By: 
Deputy

Date: 01/19/2022

EXECUTIVE OFFICE/FISCAL REVIEW:

By: 
Deputy CEO

Date: 01/19/2022

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; **\$50,001+ Board of Supervisors**

Exception to Bid Process Required/Completed ☐ N/A

Mendocino County Business License: Valid ☐

Exempt Pursuant to MCC Section: School Entity