



**SERVICE AGREEMENT 2021-025-00
BY AND BETWEEN
FIRST 5 SONOMA COUNTY COMMISSION
AND
CITY OF SANTA ROSA**

THIS SERVICES AGREEMENT (this “Agreement”) is made and entered into this 11/1/20 (the “Effective Date”), by and between First 5 Sonoma County Commission, a California public entity established in accordance with the California Children and Families Act of 1998 (the “Commission”), and the City of Santa Rosa. The Commission and City of Santa Rosa are collectively referred to herein as the “Parties” or singularly by their individual names or as a “Party.”

Recitals

- A. The Commission, which was created pursuant to the California Children and Families Act of 1998, funds programs for children aged zero to five and their families.
- B. The Commission represents that it is duly qualified by reason of training, experience, equipment, organizational infrastructure and staffing to provide the services contemplated by this agreement and is specifically experienced in administering grant funds to support the child care sector.
- C. The City of Santa Rosa acknowledges that the Commission possesses the qualifications and resources required to administer the Child Care Resiliency Fund.
- D. The City of Santa Rosa desires to retain the Commission to provide the services described herein, pursuant to the terms and subject to the conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, which are hereby incorporated by this reference, and the mutual promises contained herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. **Scope of Work.** The Commission agrees to perform the services specified in **Exhibit A** attached hereto and incorporated herein by this reference (the “Services”).
2. **Term.** This Agreement shall commence on 11/1/20 and ends on 6/30/21 or sooner terminated as provided by this Agreement (the “Term”).
3. **Funding.** Funding provided by the City of Santa Rosa to the Commission shall be a total of \$500,000. Notwithstanding any provision of this Agreement to the contrary, the Commission will perform administration of the fund at no cost to the City of Santa Rosa. All funding provided by the City will be disseminated to child care providers in the form of grants.

4. **Payment.** The City of Santa Rosa shall remit the entire sum dedicated to the Child Care Relief Fund to the Commission in a lump sum advance payment by 12/15/20, payment made via check or electronic funds transfer ("EFT"). In the event that, the Commission is unable to disseminate the funds to child care providers by the end of the term, any remaining funds will be repaid to the City of Santa Rosa.

5. **Termination.**

(a) **Event of Non-Appropriation or Reduction of Funding.** The terms of this Agreement are contingent on the continued appropriation of funds to the City of Santa Rosa by the appropriating agency(ies). Should the City of Santa Rosa not receive, or otherwise receive a reduction of, appropriated funds from any federal, state, or local governmental agency, the City of Santa Rosa, in its sole discretion, shall have the option to terminate this Agreement at any time by giving Commission thirty (30) days prior written notice.

(b) **Termination For Cause.** Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notification to the breaching Party. Termination shall be effective immediately upon receipt of the notice, or three (3) days from mailing of the notice, whichever occurs first. For the purposes of this Paragraph, material breach of this Agreement shall include, but not be limited to, the following:

- (1) Failure of the Commission to pay Contractor in accordance with Paragraph 4 of this Agreement and not cure such failure within thirty (30) days of delinquency;
- (2) Contractor's submission to the Commission of an incorrect or incomplete invoice; or
- (3) Failure of Contractor to perform the Services in a timely manner and to the satisfaction of the Commission, in the Commission's sole discretion.
- (4) Contractor's breach of this Agreement.

In no event shall any payment to Contractor by the Commission constitute a waiver by the Commission of any breach of this Agreement or any default which may then exist on the part of Contractor. Such payment shall neither impair nor prejudice any remedy available to the Commission with respect to the breach or default.

(c) **Termination Without Cause.** The Commission may, at its sole discretion, terminate this Agreement without cause for any reason not otherwise covered in this Section 5, upon giving Contractor thirty (30) days prior written notice.

6. **Defense, Indemnity, and Hold Harmless.** City of Santa Rosa shall defend, indemnify, and hold harmless the Commission, and their directors, officers, employees, agents, independent

contractors, authorized volunteers, attorneys and consultants from and against any and all losses, costs, demands, attorneys' fees, expenses, obligations, liabilities, penalties, interests, recoveries, damages, claims and judgments alleged to result from, arise out of, or be in any way connected with any willful acts, active or passive negligence, errors, or omissions of, or violation of any law or regulation by Commission's directors, officers, employees, agents, independent contractors, or volunteers, directly or indirectly related to the performance of the Services to be provided under this Agreement.

11. General.

(a) **Commission Representatives.** The Executive Director of the Commission and his or her duly appointed representative(s) shall administer this Agreement and shall have authority to act on behalf of the Commission.

(b) **Entire Agreement.** This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the Parties relating to the Services described herein, and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties with regard thereto.

(c) **Modification.** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing.

(d) **Notices.** All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, by facsimile transmission, or by electronic transmission (email) and shall be deemed sufficiently given if served in a manner specified in this Subparagraph (e). The addresses and addressees noted below shall be that Party's designated address and addressee for delivery or mailing of notices. Any Party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, three (3) days after the postmark thereon. If sent by regular mail the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means (including email) shall be deemed delivered upon telephone or similar confirmation of delivery (confirmation report from fax machine is sufficient), provided a copy is also delivered via personal delivery or mail. If notice is received after 4:30 p.m. or on a Saturday, Sunday or legal holiday it shall be deemed received on the next business day:

To the COMMISSION: Angie Dillon-Shore, Executive Director
First 5 Sonoma County
5340 Skylane Boulevard
Santa Rosa, CA 95402
Email: adillonshore@first5sonomacounty.org

To CONTRACTOR: Raissa de la Rosa, Economic Development Director
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404
Tel.: 707-543-3059
Email: Rdelarosa@srcity.org

(e) **Non-Discrimination and Equal Opportunity.** Commission shall comply with all applicable laws providing equal employment opportunities. Commission shall not discriminate against any person on the grounds of race, color, creed, gender, gender identity, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation, pregnancy, citizenship status, military or veteran status, or any other characteristic made unlawful by federal, state, or local laws. These non-discrimination and equal opportunity requirements shall apply, without limitation, to retirement, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation, use of facilities, and other terms and conditions of employment.

(f) **Assignment and Binding Effect.** Commission shall not assign all or any part of this Agreement, or any obligation or interest hereof, or any monies due or which may become due hereunder, without the prior written consent of the City of Santa Rosa, which consent may be withheld in the City's sole discretion. Subject to the provisions of the preceding sentence, this Agreement shall be binding upon, and inure to the benefit of, the respective heirs, executors, administrators, successors and assigns of the Parties.

(g) **Headings.** The subject headings of the sections and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

(h) **Construction.** All words used in this Agreement shall be construed to include the plural as well as the singular number, and vice versa; words used in this Agreement in the present tense shall include the future as well as the present; and words used in this Agreement in the masculine gender shall include the feminine and neuter genders, whenever the context so requires.

(i) **Costs and Expenses.** Each Party shall pay all costs and expenses incurred, or to be incurred, by it in negotiating and preparing this Agreement and all exhibits to this Agreement, and in closing and carrying out the transactions contemplated by this Agreement, including, without limitation, its attorneys', paralegals', and other professionals' fees and costs.

(j) **Attorneys' Fees.** If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys', paralegals' and other professionals' fees and costs in addition to any other reasonable relief to which it may be entitled.

(k) **Governing Law and Venue.** This Agreement shall be governed by and construed in

accordance with the laws of the State of California. The Parties agree that venue for any dispute or litigation arising under this Agreement shall be in the County of Sonoma, State of California, if instituted in the State courts, or the Northern District of California, if instituted in the Federal courts.

(l) **Waiver.** A waiver of any breach of this Agreement by the Parties to this Agreement shall not constitute a continuing waiver, or a waiver of any subsequent breach of the same, or any breach of another provision of this Agreement.

(m) **Partial Invalidity.** If any provision of this Agreement, or any portion thereof, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement, including, without limitation, the portions thereof not held to be invalid, void or unenforceable, shall nevertheless continue to be in full force and effect without being impaired or invalidated in any way.

(n) **Time.** Time is of the essence of this Agreement and all of its provisions.

(o) **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

(p) **Dispute Resolution.** If a dispute arises during the Term, then within three (3) business days after a written request by either Party, the Commission's representative and City of Santa Rosa's representative, or a person designated by either such representative, shall confer to resolve the issue. If the Parties' representatives or the designated person, as the case may be, cannot resolve the dispute or either Party determines they are not making progress toward resolution of the issue within twenty (20) business days after their initial conference, then the Parties reserve the right to resolve such dispute in any manner provided by law.

15. **Conflicts of Interest.** Both parties have read and understand the provisions of Sections 1090 *et seq.* and Sections 87100 *et seq.* of the Government Code relating to conflict of interest of public officers and employees. Both parties represent and warrant that, upon making diligent inquiry, it is unaware of any financial or economic interest, direct or indirect, not already disclosed by the Effective Date, or that conflicts in any manner with the performance of the Services.

17, **Compliance with Laws.**

(a) **All Contracts**

Commission shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies, having jurisdiction over the scope of services or any part hereof, including Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), all provisions of the Occupational Safety and Health Act of 1970 and all amendments thereto, and all applicable federal, state, municipal and local safety regulations. All services performed must be in accordance with these laws, ordinances, codes and regulations. Commission shall indemnify and save the City of Santa Rosa harmless



from any and all liability, fines, penalties and consequences from any noncompliance or violations of such laws, ordinances, codes and regulations. A violation of such laws, ordinances, codes and regulations shall constitute a material breach of this Agreement and may serve as a basis for termination of this Agreement under Section 17.2(j) and the initiation of appropriate legal proceedings by Commission.

(b) By signing this Agreement, Contractor certifies, under penalty of perjury, that at the time of entering into this Agreement all of the following are true:

(1) Both parties are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code).

(2) Both parties are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

(3) (A) That any policy that either party has against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, is not used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

(B) Any policy adopted by either party or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date and year first above written.

Reviewed and Recommended for Approval

For COMMISSION

Angie Dillon-Shore, Executive Director
First 5 Sonoma County

Date: _____

For CONTRACTOR

City of Santa Rosa

a _____ California

_____ [type of entity]



Agreement 2021-025-00
Child Care Resiliency Fund
City of Santa Rosa
11/1/20-6/36/21

Oscar Chavez, Commission Chair

Date: _____

Sean McGlynn, City Manager

Date: _____

Authorized Representative & Title

Date: _____

EXHIBIT A
Scope of Work & Use of Funds

PROJECT TITLE: *Sonoma County Child Care Resiliency Fund Administration - Santa Rosa*

SCOPE OF WORK: First 5 Sonoma County will administer a collaboratively funded grants program to provide economic support and relief to child care providers.

Key Deliverable	Activities	Timeline
Administer grants program	First 5 staff will develop a tiered model of funding to individual child care operators, to include Small and Large Family Child Care Homes, private child care centers and registered and license-exempt providers registered with the Community Child Care Council.	By November 1, 2020
	First 5 staff will develop an internal process to ensure, track and report how monies contributed to the fund are designated for specific criteria, to include: <ul style="list-style-type: none"> • Geographical location • Type of operator • Ages served 	By November 1, 2020
	First 5 staff will conduct outreach to solicit applications from child care operators and will provide language, visuals and flyer to City of Santa Rosa and other partners to support outreach	November 1, 2020 – December 1, 2020
	First 5 staff will convene a decision-making committee to include representatives from each contributing entity.	By December 10, 2020
	First 5 staff will manage and account for contributions to Child Care Resiliency Fund	Ongoing
	First 5 staff will disperse funding to operators in the form of checks mailed directly to applicants	By December 20, 2020
	First 5 staff will provide a report to the City of Santa Rosa detailing disbursement of all funds, including: <ul style="list-style-type: none"> • Operator business name and contact information • Address confirming location within the City of Santa Rosa • Type of child care program • Amount disbursed 	By July 15, 2021



Use of City of Santa Rosa Contribution to Child Care Resilience Fund

- No staff or administrative expenses shall be reimbursed to First 5 Sonoma County; all staff time and administration performed as an in-kind contribution.
- City of Santa Rosa's contribution to the Child Care Resilience Fund under this Agreement shall not exceed \$500,000 without written contract amendment.
- All funds contributed by the City of Santa Rosa will be designated for child care operators that meet the following criteria:
 - Physically located within incorporated City boundaries.
 - Licensed in good standing or license-exempt/registered with Sonoma County Community Child Care Council (4Cs)
 - Serving any combination of children birth through twelve years of age
 - Operated prior to March 17, 2020
 - Currently open or planning to re-open by January 1, 2021