

Agreement for Administration and Distribution of CARES Act Funds

This Agreement for the Administration and Distribution of Coronavirus Aid, Relief, and Economic Security (“CARES”) Act Funds (the “Agreement”) is between the County of San Mateo, a political subdivision of the State of California (“County”), SMCU Community Fund, an independent legal entity and non-profit public benefit corporation (“Community Fund”), and the Community Equity Collaborative, a non-profit public benefit corporation (“Collaborative,” and, together with the Community Fund and the County, the “Parties”), and it is dated as of August 4, 2020 (the “Effective Date”).

By signing this Agreement, the Parties agree to the following terms and conditions regarding the TWO MILLION DOLLARS AND ZERO CENTS (\$2,000,000.00) in CARES Act Funds to the San Mateo County Child Care Relief Fund (the “Fund”) that the Collaborative and Community Fund will assist the County to administer and distribute the Fund for the benefit of Child Care Centers and Family Child Care Homes (each, as defined herein) located in San Mateo County that have been adversely impacted by COVID-19.

1. Funds Purpose & Disbursement

- a. Funds Purpose.** The public purpose of the Fund is to ensure the health, welfare, diversity, and long-term sustainability of communities throughout the County by supporting the continued viability and availability of high quality Child Care Centers and Family Child Care Homes in San Mateo County that have been adversely impacted by COVID-19, with a particular focus on such establishments that provide child care services to the County’s most vulnerable residents; that are located in Priority One Zip Codes (i.e., Zip Codes identified by the San Mateo County Child Care Partnership Council Child Care and Early Learning Needs Assessment as having the highest need for such services); that have demonstrated fiscal sustainability; and that have participated in other existing County initiatives, such as the Big Lift and Quality Counts, as authorized and directed by the San Mateo County Board of Supervisors at its meeting of July 21, 2020 (the “Fund Purpose”).
- b. Disbursement of Funds.** Pursuant to the Fund Purpose, upon execution of this Agreement by each of the Parties, the County will transmit to and deposit with the Community Fund Two Million Dollars (\$2,000,000) in Fund proceeds. The Fund shall be disbursed by the Community Fund pursuant to the terms of this Agreement as individual grants of no more than fifty-five thousand dollars (\$55,000) each to a minimum of twenty-five (25) San Mateo County Child Care Centers and no more than ten thousand dollars (\$10,000) each to a minimum of sixty-five (65) San Mateo County Family Child Care Homes. For purposes of this Agreement, “Child Care Center” has the meaning set forth in Section 101152 of Title 22 of the California Code of Regulations and “Family Child Care Home” has the meaning set forth in Section 102352 of Title 22 of the California Code of Regulations.

Grants from the Fund shall be in an amount that covers approximately one month of operating expenses for the grantee, including payroll, rent, and other operating cost or the above-referenced maximum grant amount (i.e., \$55,000 for Child Care Centers and \$10,000 for Family

Child Care Homes), whichever is less.

The Parties shall collaborate to develop priority criteria for grants from the Fund. These priority criteria will include, at a minimum, a preference for funding for Child Care Centers and Family Child Care Homes that provide child care services to the County's most vulnerable residents; that are located in Priority One Zip Codes (i.e., Zip Codes identified by the San Mateo County Child Care Partnership Council Child Care and Early Learning Needs Assessment as having the highest need for such services); that have demonstrated fiscal sustainability; and that have participated in other existing County initiatives, such as the Big Lift and Quality Counts.

The Parties further acknowledge and agree that the Parties may from time to time, by written amendment to this Agreement, adjust the qualification and priority criteria for grants from the Fund.

2. Term of Agreement

The Term of this Agreement shall commence on August 4, 2020 and shall terminate on October 31, 2020, unless earlier terminated by either Party or unless the entirety of the Fund have been earlier disbursed by SMCU Community Fund, as set forth in this Agreement ("Term").

3. Services Provided by Collaborative

The Collaborative will provide the following services for the County under this Agreement:

- a. Arrange web portal for Child Care Centers and Family Child Care Homes to submit grant applications, supporting documentation and other requirements.
- b. Review all grant applications to determine that applications are complete and that applicants meet agreed-upon program requirements.
- c. Maintain documentation to substantiate the completeness of applications and applicant eligibility and provide written reports as required by Section 8 of this Agreement.
- d. Provide list of grant applications meeting eligibility requirements to the Advisory Team, along with appropriate summaries and documentation to facilitate Advisory Team review of grant applications.
- e. Coordinate and facilitate Advisory Team meetings for review of grant applications or other processes employed by the Advisory Team to review grant applications.
- f. Secure W-9 information from grant applicants meeting eligibility requirements and transmit to the Community Fund W-9 information for grant applicants recommended by the Advisory Team for receipt of a grant.
- g. Timely notify grant applicants of the final action on their applications.
- h. Transfer to the County all information and documentation received and/or stored by Collaborative in connection with the performance of its duties under this Agreement, with such transfer made electronically pursuant to reasonable instructions provided by the County. Subsequent to the transfer, Collaborative will destroy all applicant financial information in its possession, custody, or control and will provide written notice to the

County when this has been accomplished.

4. Services Provided by SMCU Community Fund

SMCU Community Fund will provide the following services for the County under this Agreement:

- a. Participate in the Advisory Team review of grant applications.
- b. Receive from the Advisory Team a list of recommended grants and review for final approval.
- c. Receive from Collaborative all W-9 information for recommended grants and send out Form 1099s to grant recipients, as required.
- d. For any recommended grant applications not approved, the Community Fund will notify Advisory Team and Collaborative.
- e. Notify approved applicants and disburse grants.
- f. Provide written reports to the County on Fund status and grants disbursed, as set forth below in Section 8 of this Agreement.

Notwithstanding anything to the contrary in this Agreement, the Community Fund shall not be required to disburse funds as determined by the Advisory Team if, in the good faith exercise of discretion, the Community Fund determines that it would be inappropriate to do so. In the event that the Community Fund exercises this right, it shall promptly provide the other Parties with written notice, along with a detailed description of the basis for this determination.

5. Role of the Advisory Team

The Advisory Team will consist of representatives of the San Mateo County Board of Supervisors, other representatives as designated by the County, and Community Fund, and will be responsible for the following:

- a. In coordination with Collaborative and the Community Fund, develop grant eligibility criteria for applications received for grants from the Fund.
- b. In coordination with Collaborative and the Community Fund, determine prioritization for grant application submissions to be evaluated. (For example, grants may be prioritized based on time of submission, order of approval, or lottery. This assumes that qualified grant applications exceed our funds available for grants.)
- c. Review grant applicants deemed by Collaborative as meeting eligibility criteria, and confirm for grant disbursement recommendation.
- d. Communicate recommended grant applications to SMCU Community Fund

6. Administrative Fee

As consideration for the above-described services, the Community Fund shall receive from the County an administrative fee of five thousand dollars (\$5,000), which amount shall be paid as

follows: two thousand five hundred dollars (\$2,500) upon execution of this Agreement by all Parties and two thousand five hundred dollars (\$2,500) upon the final distribution of all amounts in the Fund.

As consideration for the above-described services, the Collaborative shall receive from the County an administrative fee of five thousand dollars, which shall be paid as follows: two thousand five hundred dollars (\$2,500) paid upon execution of this Agreement by all Parties and two thousand five hundred dollars (\$2,500) paid upon the final distribution of all amounts in the Fund.

7. Use of Funds, Restricted Purposes

The Parties acknowledge that this Agreement is a contract with the County for the public purposes stated herein. The Parties shall use the Funds only as stated herein unless prior written permission is received from the County, which permission shall be reflected in a written amendment to this Agreement

8. Reporting Requirements

Collaborative will provide the County weekly summaries, in a format reasonably designated by the County, detailing (a) all applications received, processed, and recommended for approval or denial by the Advisory Team, along with related information that may be reasonably requested by the County. The Community Fund will provide the County with weekly summaries of all grants disbursed, including a breakdown of amounts disbursed to Child Care Centers and Family Child Care Homes by geographic location within the County (i.e., city/town or unincorporated area), as well as the status of the Fund (including, but not limited to, the receipt, use, and disbursement of all amounts from the Fund and the amounts remaining in the Fund).

9. Recordkeeping & Audit

Community Fund shall treat all amounts in the Fund as restricted assets, place all amounts in the Fund into a separate account/fund, and maintain books to show the Fund separately. All expenditures made in furtherance of the Fund Purpose shall be charged against the Fund and shall appear on Community Fund's books. Community Fund shall keep adequate records to substantiate its expenditures of all amounts from the Fund and compliance with the terms of this Agreement. Community Fund shall make these books and records available to the County at reasonable times for review and audit, and shall comply with all reasonable requests of the County for information and interviews regarding use of the Fund. Community Fund shall keep copies of all relevant books and records and all reports to the County for at least three (3) years after full expenditure of the Fund, and such books and records shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

10. Prohibited Activities

Community Fund may not use the Funds (a) for any purpose other than the Fund Purpose; (b) to carry on propaganda, or otherwise attempt to influence any legislation (within the meaning of Section 4945(d)(1) of the United States Internal Revenue Code); and/or (c) to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration

drive (within the meaning of Section 4945(d)(2) of the United States Internal Revenue Code).

11. Compliance with Laws

All services to be performed by the Collaborative and the Community Fund pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

12. Non-Discrimination & Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

The Collaborative and the Community Fund shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. The Collaborative's and SMCU Community Fund's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

The Collaborative and the Community Fund shall each comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

The Collaborative and the Community Fund shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Collaborative's or Community Fund's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and the Collaborative and Community Fund shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

The Collaborative certifies that no finding of discrimination has been issued in the past 365 days against it by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. The Community Fund certifies that no finding of discrimination has been issued in the past 365 days against the it by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against the Collaborative or Community Fund within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Collaborative or Community Fund, as the case may be, shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Collaborative shall report to the County Manager (identified below) the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this section of the Agreement or the Section titled "Compliance with Laws". Community Fund shall report to the County Manager (identified below) the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Collaborative or Community Fund, as the case may be, that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the applicable Party to penalties, to be determined by the County Manager, including but not limited to the following: (1) immediate termination of this Agreement; (2) disqualification of the SMCU Community Fund from being considered for or being awarded a County contract for a period of up to 3 years; (3) liquidated damages of \$2,500 per violation; and/or (4) imposition of other appropriate

contractual and civil remedies and sanctions, as determined by the County Manager. To effectuate the provisions of this section, the County Manager shall have the authority to offset all or any portion of the amount described in this section against amounts due to Collaborative or Community Fund, as the case may be, under this Agreement or any other agreement between Community Fund and County or Collaborative and County.

13. Termination

Except as otherwise specifically provided herein, this Agreement may be terminated by any Party at any time without a requirement of good cause upon 30 days' advance written notice. If the Agreement is terminated by Community Fund before the all amounts in the Fund have been disbursed, Community Fund shall, with five (5) business days of providing written notice of termination, return to the County all remaining amounts in the Fund and comply with the reporting requirements set forth above in Section 6.

14. Indemnification

Each Party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, representatives, insurers, employees, and servants from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying Party or its agents, representatives, employees, servants, contractors, subcontractors, or invitees. The duty of a Party to to indemnify and hold harmless another Party shall not apply to injuries or damage for which such other Party has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct. The duty to indemnify and hold harmless set forth in this Section shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts, and shall include the duty to defend as set forth in Section 2778 of the California Civil Code. This indemnity/hold harmless provision survives the Agreement.

15. Assignment

This Agreement is not assignable by a Party, either in whole or in part, without the express consent of each other Party in the form of a formal written amendment to this Agreement.

16. Governing Law & Jurisdiction

The validity of this Agreement and of its terms, the rights and duties of the Parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Integration & Modification

This Agreement supersedes any and all prior or contemporaneous agreements, representation, and understandings of or between the Parties, and the Parties warrant that they are not relying on any such prior representations. The Parties understand and agree that the terms of this Agreement may not be altered, amended, modified or otherwise changed in any respect or particular except by a writing duly executed by the Parties, or their respective authorized representative(s).

18. Severability

In the event that, at any time subsequent to the execution of this Agreement, any portion or provision of it is found to be illegal, invalid, unenforceable, non-binding or otherwise without legal force or effect, the remaining portion(s) will remain in force and be fully binding.

19. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute a complete agreement. Moreover, this Agreement may be signed by electronic signature and copies of original signatures shall be treated the same as the originals.

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IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have signed Agreement as of the Effective Date set forth above.

COUNTY OF SAN MATEO
By:
Name: Mike Callagy
Title: County Manager
Date:

SMCU COMMUNITY FUND
By:
Name:
Title:
Date:

COMMUNITY EQUITY COLLABORATIVE
By:
Name:
Title:
Date: