

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: July 5, 2022	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
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DEPARTMENT: Social Services APPROVING PARTY: Vickie Clark, Director PHONE NUMBER: (530) 993-6720

AGENDA ITEM: Professional Services Agreement between Toddler Towers, Inc. and Sierra County Social Services.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: Please see attached memo

FUNDING SOURCE: 0515800
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ 69,983.54 N/A

ARE ADDITIONAL PERSONNEL REQUIRED?
 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No
IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2022- _____ Agreement 2022- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

Memorandum

To: Sierra County Board of Supervisors

From: Vickie Clark, Director

Reference: Consent Agenda Item

Date of memo: June 27, 2022

Date of Board Meeting: July 5, 2022

Requested Action: Professional Services Agreement between Toddler Towers, Inc. and Sierra County Social Services.

Mandated by: The CAPIT programs were established by Assembly Bill 1733 (Welfare and Institution Code Sections 18960-18964), California Child Welfare System Improvement and Accountability Act (Assembly Bill 636)

Funding

Budgeted? Yes No

Revenue	\$69,983.54	Social Services
Expenses	\$69,983.54	Social Services
Difference	0	

Background Information:

The CAPIT programs were established by Assembly Bill 1733 (Welfare and Institution Code Sections 18960-18964) with the intent that child abuse and neglect prevention and intervention programs be encouraged by the funding of community-based public and private agencies addressing needs of children at high risk of abuse or neglect and their families.

Sierra County Social Services has contracted with Toddler Towers for many years to provide high quality early childhood care and education, parent support and respite care services to serve the diversity of family needs in our community.

Potential Issues to consider:

None

Alternatives or Impacts of disapproval:

These contractual services allow Social Services to meet our California Child and Family Services Review requirements.

**AGREEMENT FOR
PROFESSIONAL
SERVICES**

THIS AGREEMENT for Professional Services ("Agreement") is made as of the Agreement Date set forth below by and between the County of Sierra, a political subdivision of the State of California ("the COUNTY"), and Toddler Towers, Inc. (the "CONTRACTOR")

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

OPERATIVE PROVISIONS

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date: July 1, 2022

Termination Date: June 30, 2023

3. PAYMENT.

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billings for said services to COUNTY in the manner specified in Attachment "B".

4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, except as provided in this paragraph. COUNTY shall furnish CONTRACTOR only those facilities, equipment, and other materials and shall perform those obligations listed in Attachment "A".

5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions. The HIPAA Business Associates Agreement, Attachment E is incorporated by this reference.

7. DESIGNATED REPRESENTATIVES.

The Director of Sierra County Health and Social Services is the designated representative of the COUNTY and will administer this Agreement for the COUNTY. Pamela Filippini is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - Additional Provisions
- Attachment D - General Provisions
- Attachment E - Business Associate Agreement

9. AGREEMENT DATE. The Agreement Date is July 1, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

"COUNTY"

"CONTRACTOR"

COUNTY OF SIERRA

By _____
PAUL ROEN, CHAIRMAN
SIERRA COUNTY BOARD OF SUPERVISORS

PAMELA FILIPPINI, DIRECTOR
TODDLER TOWER DAY CARE

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
Clerk of the Board

DAVID PRENTICE
County Counsel

ATTACHMENT A

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

CHILD ABUSE PREVENTION AND INTERVENTION TREATMENT (CAPIT) - \$56,000

The CAPIT programs were established by Assembly Bill 1733 (Welfare and Institution Code Sections 18960-18964) with the intent that child abuse and neglect prevention and intervention programs be encouraged by the funding of community-based public and private agencies addressing needs of children at high risk of abuse or neglect and their families.

Service priority is to be given to prevention programs provided through non-profit agencies, including programs that identify and provide services to isolated families, particularly those with children five years of age or younger. Services priority is also to be given to high quality home visiting programs based on best practice, services to child victims of crime, children at risk of abuse or neglect, and other children referred for services by legal, medical or social services agencies.

Projects funded by CAPIT need to clearly be related to addressing the unmet needs of children, especially those 14 years of age and under. Services for minority populations shall also be reflected in the funding of projects.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties for CAPIT funding are to be based on presenting support according to client need in the following areas:

- Day care
- Pre-school education
- Respite care
- Parent support

Priority for services shall be given to children who are at high risk, including children who are being served by the county welfare departments for being abused and neglected and other children who are referred for services by legal, medical, or social services agencies.

The CONTRACTOR will keep a record of the description of services provided, the demographics of the population served and the number of participants served. CONTRACTOR will provide to COUNTY information regarding clients served with CAPIT funds on request.

PROMOTING SAFE AND STABLE FAMILIES (PSSF) - \$3,000

PSSF funding is to be used to support services to strengthen parental relationships and promote healthy marriages, to improve parenting skills and increase relationship skills within the family to prevent child abuse and neglect.

PSSF funds will be allocated to the following PSSF service components:

Family Support Services

The term "family support services" means community-based services to promote the safety and well-being of children and families designed to:

- Increase the strength and stability of families (including adoptive, foster, and extended families)
- Increase parents' confidence and competence in their parental capacity
- Afford children a safe, stable and supportive family environment
- To strengthen parental relationships, promote healthy marriages, and otherwise enhance child development

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties for Family

Support Services are to be based on presenting support according to client need in the following areas:

- Day care
- Pre-school education
- Respite care
- Parent Support

Family Preservation Services

The term “family preservation services” means services designed to help children and families (including adoptive and extended families) at risk or in crisis. Services and activities may include the following:

- Pre-placement preventive services programs designed to help children at risk of foster care placement remain safely with their families.
- Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement
- Parenting education with respect to matters such as child development, family budgeting, coping with stress, health and nutrition.
- Infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to state law (i.e. Safely Surrendered Babies).

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties for Family Preservation Services are to be based on presenting support according to client need in the following areas:

- Respite care to children to provide temporary relief for parents and other caregivers (including foster parents)
- Pre-school education

Adoption Promotion and Support Services

The term “adoption promotion and support services” means services and activities designed to ensure permanency for children through family reunification, by adoption, or by other permanent living arrangement.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties for Adoption Promotion and Support Services are to be based on presenting support according to client need in the following areas:

- Day care
- Respite care
- Adoption education services
- Parent Support

PSSF contains four components and according to the State of California, Department of Social Services, 20% of the PSSF allocation must be spent in each of the four categories. Only three of the categories are represented in this contract, Sierra County Department of Social Services would like 80% of the provided funding spent in each of the three represented categories. The remaining 20% may be spent in any of the three categories.

The CONTRACTOR will keep a record of the description of services provided, the demographics of the population served and the number of participants served. CONTRACTOR will provide to COUNTY information regarding clients served with PSSF funds on request.

CHILD WELFARE OUTCOME IMPROVEMENT PROGRAM (CWSOIP) - \$10,983.54

The CWSOIP funds are intended to support county efforts to improve AB636 outcomes for children by providing counties with additional resources for activities such as: implementing new procedures, providing training to staff or caregivers, purchasing services to meet unmet needs, conducting focused/targeted recruitment of caregivers or improving coordination between public and/or private agencies or any other activity that addresses AB636 outcomes a county has identified as needing improvement.

The COUNTY is allocating \$10,983.54 of CWSOIP funds to the CONTRACTOR to be used for training or purchase of Evidence Based or Evidence informed programs as deemed appropriate to enable CONTRACTOR to better serve the targeted populations within the County.

For training reimbursement CONTRACTOR shall provide to the COUNTY expense reports. Allowable expenditures are class fees, per diem not to exceed \$56 per day, lodging and travel, including mileage reimbursed at the Federal rate. Supporting documentation in the form of agendas and mileage documentation (i.e. Google Maps, MapQuest) shall be included as part of the expense report.

In-service training expenses will be invoiced separately on an attendee basis. The CONTRACTOR shall provide as backup to the invoice a copy of the attendance record and the class outline or agenda.

For the purchase of Evidence Based or Evidence informed programs, CONTRACTOR shall assess programs based on suitability for the community and shall present COUNTY with an invoice or purchase agreement. COUNTY will purchase program on behalf of CONTRACTOR upon review and approval of selected program(s).

The CONTRACTOR will keep a record of the description of any services provided, demographics of the population served, the number of participants served and a record of all trainings completed during the contract period.

A.2. TIME SERVICES RENDERED.

Work will begin immediately upon execution of this Agreement by the COUNTY. Thereafter, CONTRACTOR shall perform services in a diligent and timely manner.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY COUNTY.

The COUNTY shall provide direct oversight and training services to the CONTRACTOR to help design and develop a system to capture acceptable activities within the scopes of the CAPIT, PSSF and CWSOIP funding streams.

**ATTACHMENT B
PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

B.1 BASE CONTRACT FEE

CAPIT

CONTRACTOR shall invoice the COUNTY 1/12th of the CAPIT allocation (\$4,666.67) on a monthly basis. COUNTY will reimburse CONTRACTOR upon receipt of invoice. Payment for services shall not exceed Fifty-six Thousand and no cents (\$56,000.00). CONTRACTOR shall make a cash or in-kind match from non-State funds in an amount equal to or in excess of 10% of the total funds granted. CONTRACTOR must be able to document match upon request. CONTRACTOR will maintain supporting documentation of activities in the event of an audit.

PSSF

CONTRACTOR will invoice COUNTY on either a monthly or quarterly basis for PSSF services as outlined in Attachment A. The invoice will clearly state which PSSF services were provided and the amount expended for those specific services. PSSF services will not exceed Three Thousand Dollars and no cents (\$3,000). CONTRACTOR is not required to provide a match for PSSF. CONTRACTOR will maintain supporting documentation of invoices in the event of an audit.

CWSOIP

CONTRACTOR shall provide to COUNTY expense reports for the reimbursement of training activities. COUNTY will reimburse CONTRACTOR upon receipt of expense reports. Expense report documentation shall include receipts, agendas and/or other supporting documentation acquired at the training. COUNTY will purchase Evidence Based or Evidence Informed programs on behalf of CONTRACTOR. Payment for training and purchase of programs shall not exceed Ten Thousand Nine Hundred Eighty Three dollars and Fifty-Four cents (\$10,983.54).

In no event shall total compensation paid to CONTRACTOR under this Provision B.1 exceed \$59,983.54 without an amendment to this Agreement approved by the Sierra County Board of Supervisors.

B.2 MILEAGE N/A

B.3 TRAVEL COSTS. N/A

B.4 AUTHORIZATION REQUIRED

Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid for by COUNTY. Payment for additional services shall be made to CONTRACTOR by COUNTY if, and only if, this Agreement is amended in writing by both parties in advance of performing additional services.

B.5 SPECIAL CIRCUMSTANCES N/A

B.6 MAXIMUM CONTRACT AMOUNT

The maximum amount payable to CONTRACTOR under this Agreement shall not exceed the following:

B.1	Base Contract Fee	\$ 69,983.54
B.2	Mileage	0.00
B.3	Travel Costs	0.00
B.4	Authorization Required	0.00
B.5	Special Circumstances	0.00
	MAXIMUM CONTRACT AMOUNT	\$ 69,983.54

ATTACHMENT C

ADDITIONAL PROVISIONS

1. CONTRACTOR shall not supplant any Federal, State or County funds intended for the purposes of this Agreement with any funds made available under this Agreement. Contractor shall not claim reimbursement from County for, or apply sums received from County with respect of that portion of its obligations which have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Agreement, either directly or indirectly, as a contribution or compensation for purposes of obtaining State funds under any State program or County funds under any County programs without prior written approval of Administrator.
2. Contractor shall complete a Cost Report within thirty (30) days after the termination of this agreement which shall be the final financial and statistical report submitted by Contractor to Administrator.
3. All items purchased with funds provided under this Agreement which has a single unit cost of at least one hundred dollars (\$100.00) including sales tax and have a useful life of more than one year shall be considered capital equipment. Title to all items of capital equipment will remain in the State of California. If the equipment is used for activities besides those required for this Agreement, costs must be prorated accordingly. Upon the termination of this Agreement, Contractor shall immediately return any items of capital equipment to the State or its representatives, or dispose of them in accordance with the directions of the State Department of Social Services (SDSS).
4. CONTRACTOR agrees to maintain all records pertaining to service delivery and fiscal and administrative control for three (3) years after final payment has been made. Upon request, the CONTRACTOR shall make these records available within to the authorized county, state and federal personnel.
5. CONTRACTOR shall establish a procedure to ensure that all employees, volunteers, consultants, subcontractors or agents performing services under this contract report child abuse or neglect to a child protective agency as defined in Penal Code Section 11165(k). Each employee, volunteer, consultant, subcontractor or agent must sign a statement that he or she knows of the reporting requirements as defined in Penal Code Section 11166(a) and will comply with the provisions of the code section.
6. Persons who serve on a multi-disciplinary team will conform to all applicable county procedures and state and federal law regarding the disclosure of information relevant to the services provided to any person(s) under the terms of this Agreement.
7. Pursuant to 2 CFR 180.300(a), I understand the suspension and debarment rules and certify to the best of my knowledge and belief, I am not:
 - Debarred nor suspended from federal financial assistance programs and activities.
 - Proposed for debarment.
 - Declared ineligible.
 - Voluntarily excluded from participation in covered transactions by any federal department or agency.

ATTACHMENT D GENERAL PROVISIONS

D.1 INDEPENDENT CONTRACTOR. For all purposes arising out of this Agreement, CONTRACTOR shall be an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in *Government Code* Section 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

D.1.1 CONTRACTOR shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

D.1.2 CONTRACTOR shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

D.1.3 CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

D.1.4 CONTRACTOR is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the CONTRACTOR with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY.

D.1.5 The CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

D.1.6 The CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

D.1.7 COUNTY shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax including, but not limited to, any personal income tax owed by CONTRACTOR.

D.1.8 The CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of COUNTY.

D.1.9 CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY in any way without the written consent of the COUNTY.

D.2 LICENSES, PERMITS, ETC. CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

D.3 CHANGE IN STATUTES OR REGULATIONS. If there is a change of statutes or regulations

applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

D.4 TIME. CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

D.5 INSURANCE.

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage through and with an insurer acceptable to COUNTY, naming the COUNTY and COUNTY's officers, employees, agents and independent contractors as additional insured (hereinafter referred to as "the insurance"). The insurance shall contain the coverage indicated by the checked items below.

Yes **D.5.1.1** Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of Two Million Dollars (\$2,000,000) per occurrence and with not less than Five Million Dollars (\$5,000,000) aggregate; CONTRACTOR shall insure both COUNTY and CONTRACTOR against any liability arising under or related to this Agreement.

No **D.5.1.2** During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than Two Million Dollars (\$2,000,000) per incident and Five Million Dollars (\$5,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

Yes **D.5.1.3** Comprehensive automobile liability insurance with minimum coverage of One Hundred Thousand Dollars (\$100,000) per occurrence and with not less than One Hundred Thousand Dollars (\$100,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

Yes **D.5.1.4** Workers' Compensation Insurance coverage for all CONTRACTOR employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the *Labor Code*.

D.5.2 The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

D.5.4 The insurance shall include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to COUNTY.

D.5.5 The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit.

D.5.6 Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and endorsements to:

County of Sierra
Auditor/Risk-Manager
P.O. Drawer 425
Downieville, CA 95936

D.5.7 CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.

D.5.8 COUNTY shall have the right to request such further coverages and/or endorsements on the insurance as COUNTY deems necessary, at CONTRACTOR's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY in its sole and absolute discretion.

D.5.9 Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, CONTRACTOR shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

D.6 INDEMNITY. CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for any economic loss or personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of CONTRACTOR in the performance of services rendered under this Agreement by CONTRACTOR, or any of CONTRACTOR's officers, agents, employees, contractors, or subcontractors.

D.7 CONTRACTOR NOT AGENT. Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

D.8 ASSIGNMENT PROHIBITED. CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

D.9 PERSONNEL. CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

D.10 STANDARD OF PERFORMANCE. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

D.11 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the *California Revenue and Taxation Code* (107). For all purposes of compliance by COUNTY with Section 107.6 of the *California Revenue and Taxation Code*, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

D.12 TAXES. CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

D.13 TERMINATION. COUNTY shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to CONTRACTOR. In the event COUNTY gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

D.13.1.1 CONTRACTOR shall deliver to COUNTY copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostatting, photographing, computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

D.13.1.2 COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed One Thousand Dollars (\$1,000). Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

D.13.2 CONTRACTOR may terminate its services under this Agreement upon thirty (30) working days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY, provided that CONTRACTOR has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the COUNTY may cure the alleged breach.

D.14 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

D.15 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.16 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific references and

attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

D.17 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.18 ATTORNEY'S FEES. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

D.19 MINOR AUDITOR REVISION. In the event the Sierra County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed 1% of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

D.20 CAPTIONS. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.21 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

D.21.1 NUMBER AND GENDER. In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

D.21.2 MANDATORY AND PERMISSIVE. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

D.22 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

D.23 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

D.24 MODIFICATION. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Attachment D page 5 of 7

D.25 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

D.26 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.27 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or

provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

D.28 VENUE. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Sierra, State of California.

D.29 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

D.30 CALIFORNIA TORT CLAIMS ACT. Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the *Government Code*, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under the terms and conditions of this Agreement.

D.31 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term herein.

D.32 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms nor conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.33 CORPORATE AUTHORITY. If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR will present to the COUNTY within thirty (30) days after execution of this Agreement, a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

D.34 CONFLICT OF INTEREST.

D.34.1 LEGAL COMPLIANCE. CONTRACTOR agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the *California Government Code*, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

D.34.2 ADVISEMENT. CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

D.34.3 ADMONITION. Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow

exceptions.

D.35 NONDISCRIMINATION. During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (*Government Code* Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing *Government Code* Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California *Administrative Code* are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.36 JOINT AND SEVERAL LIABILITY. If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

D.37 TAXPAYER I.D. NUMBER. The COUNTY shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the latter's Taxpayer I.D. Number or Social Security Number (as required on the line under CONTRACTOR's signature on page 2 of this Agreement).

D.38 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":
Sierra County Human Services
P.O. Box 1019
Loyalton, CA 96118

With a copy to:
County Counsel
County of Sierra
Post Office Drawn D
Downieville, CA 95936

If to "CONTRACTOR":
Toddler Towers aka Sierra Kids
P.O. Box 402
Loyalton, CA 96118

SIERRA COUNTY

Business Associates Agreement

This Agreement is entered into this 1st day of July 2022 by and between the County of Sierra doing business by and through the Sierra County Department of Health and Human Services (collectively referred to herein as the "County" and Toddler Towers, Inc.(referred to herein as the "Business Associate")

Recitals

WHEREAS, County has heretofore or contemporaneously with the execution of this Agreement entered into an Agreement for Professional Services (the "Professional Services Agreement") whereby Business Associate provides certain services to County and its clients and citizens which involves the access and use of certain information pertaining to individuals which information is required to be kept confidential and protected under the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-101 (referred to herein as "HIPAA") and the regulations adopted pursuant to the Act; and

WHEREAS, pursuant to the Professional Services Agreement County will make available and/or transfer to Business Associate, and/or Business Associate will generate or otherwise access confidential, personally identifiable health information in conjunction with services delivered on behalf of the County; and

WHEREAS, such information may be used or disclosed only in accordance with HIPAA and the applicable regulations [including without limitation, 45 CFR §§ 164.502(e); 164.504(e)] issued pursuant to the Health Insurance Portability and Accountability Act [42 USC §§ 1320 – 1320d-8] and the terms of this Agreement, or more stringent provisions of the law of the State of California.

NOW THEREFORE, In consideration of the obligations, benefits and compensation provided to Business Associate under the provisions of the Professional Services Agreement and in order to ensure that said Agreement remains valid and complies with HIPAA, the parties agree as follows:

1. As used herein and with reference to the obligations under HIPAA, Protected Health Information ("PHI") shall mean individually identifiable health information including, without limitation, all information, data, documentation, and materials of any nature or form, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall include but not be limited to individually identifiable information received from or on behalf of the County as more fully defined in 45 CFR § 164.501, and any amendments thereto.
2. County shall provide to Business Associate a copy of the current Notice of Privacy Practices and any relevant information on changes to or agreed upon restrictions relating to legal permissions for the use or disclosure of PHI.
3. Business Associate agrees that it shall not receive, create, use or disclose PHI except as follows:
 - a. (1)solely for meeting its obligations as set forth in the Professional Services Agreement and any other agreements between the Parties evidencing their business relationship or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Arrangement Agreement (if consistent with this Agreement and the HIPAA Privacy Rule), or the HIPAA Privacy Rule, and (3) as would be permitted by the HIPAA Privacy Rule if such use or disclosure were made by Covered Entity;
 - b. If necessary for the proper management and administration of Business Associate or to carry out legal responsibilities of Business Associate, PHI may only be disclosed to another

person/entity for such purposes if:

- Disclosure is required by law; or
 - Where Business Associate obtains reasonable assurances from the person to whom disclosure is made that the PHI released will be held confidentially, and only may be used or further disclosed as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
 - Person agrees to notify Business Associate of any breaches of confidentiality;
- c. To permit Business Associate to provide data aggregation services relating to the health care operations of the County.

4. Business Associate and County agree that neither of them will request, use or release more than the minimum amount of PHI necessary to accomplish the purpose of the use, disclosure or request.

5. Business Associate will establish and maintain appropriate safeguards to prevent any unauthorized use or disclosure of PHI.

6. Business Associate agrees that it shall immediately report to County any unauthorized uses/disclosures of which it becomes aware, and shall take all reasonable steps to mitigate the potentially harmful effects of such breach.

7. Business Associate hereby indemnifies County and agrees to hold County harmless from and against any and all losses, expense, damage or injury that County may sustain as a result of, or arising out of, Business Associate's or its agent's or sub-agreement's, unauthorized use or disclosure of PHI.

8. Business Associate shall carry comprehensive general liability insurance.

9. Business Associate shall ensure that all of its subcontractors and agents are bound by the same restrictions and obligations contained herein whenever PHI is made accessible to such subcontractors or agents, and shall give prior notice to County of any subcontractors or agents who are to be given access to PHI.

10. Business Associate shall make all PHI and related information in its possession available as follows:

- a. To the individual or his/her personal representative or to the County, to the extent necessary to permit County to fulfill any obligation to allow access for inspection and copying in accordance with the provisions of 45 CFR § 164.524 and any subsequent amendments to the regulations;
- b. To the individual or his/her personal representative or to the County, to the extent necessary to permit County to fulfill any obligation to account for disclosures of PHI in accordance with 45 CFR § 164.528 and any subsequent amendments to the regulations.

11. Business Associate shall make PHI available to County to fulfill County's obligation to amend PHI and related information in accordance with 45 CFR §164.526, and shall, as directed by County, incorporate any amendments or related statements into the information held by Business Associate and any subcontractors or agents.

12. Business Associate agrees to make its internal practices, books and records relating to the use or disclosure of information received from or on behalf of County available to the U.S. Secretary of Health and Human Services, or the Secretary's designee, for purposes of determining compliance with the privacy regulations, and any amendments thereto.

13. Upon termination of this Agreement, Business Associate agrees, at the option of County, to return or destroy all PHI created or received from or on behalf of County. Business Associate agrees that it

will not retain any copies of PHI except as required by law. If PHI is destroyed, Business Associate agrees to provide County with appropriate documentation/certification evidencing such destruction. If return or destruction of all PHI, and all copies of PHI, is not feasible, Business Associate agrees to extend the protections of this Agreement to such information for as long as it is maintained. Termination of this Agreement shall not affect any of its provisions that, by wording or nature, are intended to remain effective and to continue in operation.

14. The PHI and any related information created or received from or on behalf of County is and shall remain the property of the County. Business Associate agrees that it acquires no title in or rights to the information, including any de-identified information.

15. Notwithstanding anything in this Agreement to the contrary, County shall have the right to immediately terminate the Professional Services Agreement or any other agreement between the parties if County determines that Business Associate has violated any material term of this Agreement. If County reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, County gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to County that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then County shall have the right to immediately terminate the Professional Services Agreement or any other agreement between the parties. In the event of termination as described in this Paragraph, County shall have the right to contract for replacement service through another entity or provider, with Business Associate responsible for paying any difference in cost.

16. Notwithstanding any rights or remedies under this Agreement or provided by law, County retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by Business Associate, any of its subcontractors or agents, or any third party who has received PHI from Business Associate.

17. This Agreement shall be binding on the parties and their successor, but neither party may assign the Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.

18. The obligations to safeguard the confidentiality and security of PHI imposed herein shall survive the termination of this Agreement.

19. Any ambiguities in this Agreement shall be resolved in favor of an interpretation that promotes compliance with HIPAA and regulations promulgated thereunder. The parties agree that any modifications to those laws shall modify the obligations of the parties hereunder without the need for formal amendment of the Agreement. Any other amendments to this Agreement shall not be effective without the written agreement of both parties.

20. Any notice to the other party pursuant to this Agreement shall be deemed provided if sent by first class United States mail, postage prepaid, as follows:

To County: County of Sierra
Department of Health and Human Services
P.O. Box 1019
Loyalton, CA 96118

To Contractor: Toddler Towers, Inc.
P.O. Box 402
Loyalton, CA 96118

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

“COUNTY”

“CONTRACTOR”

COUNTY OF SIERRA

Paul Roen, Chairman
Sierra County Board of Supervisors

Pamela Filippini, Director
Toddler Towers, Inc.

APPROVED AS TO FORM:

ATTEST:

Heather Foster
Clerk of the Board

David Prentice
County Counsel