

**AGREEMENT FOR PROVISION OF ADMINISTRATIVE SERVICES TO LAKE COUNTY
TOURISM IMPROVEMENT DISTRICT**

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as "County", and Visit Lake County California, hereinafter referred to as "Contractor", collectively referred to as the "parties".

1. SERVICES

Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to County the services described in the Scope of Services attached hereto and incorporated herein as Exhibit A at the time and place and in the manner specified therein. This agreement references Resolution 2018-75. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A - Scope of Services, Exhibit B - Fiscal Provisions, and Exhibit C - Compliance Provisions, Exhibit D - Management District Plan, and Exhibit E - Resolution 2018-75, the Agreement shall prevail.

2. TERM

This Agreement shall commence on July 1, 2022 and shall continue in full force and effect until June 30, 2023, or is otherwise terminated as hereinafter provided. In the event County desires to temporarily continue services after the expiration of this Agreement, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

3. COMPENSATION

Contractor has been selected by County to provide the services described hereunder in Exhibit "B" (Scope of Services), attached hereto. Compensation to Contractor shall not exceed the sum of Seventy Eight Thousand Dollars (\$78,000).

The County shall compensate Contractor for services rendered, in accordance with the provisions set forth in Exhibit "B" (Fiscal Provisions), attached hereto, provided that Contractor is not in default under any provisions of this agreement. Compensation to Contractor is contingent upon appropriation of federal, state and county funds.

4. TERMINATION

This Agreement may be terminated by mutual consent of the parties or by County upon 30 days written notice to Contractor.

In the event of non-appropriation of funds for the services provided under this Agreement, County may terminate this Agreement, without termination charge or other liability.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. MODIFICATION

This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by the County Administrative Officer.

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6. NOTICES

All notices between the parties shall be in writing addressed as follows:

County of Lake
County Administrative Office
255 N. Forbes Street
Lakeport, CA 95453

Visit Lake County California
Attn: Brian Fisher
P.O. Box 712
Lakeport, CA 95453

7. EXHIBITS

The Agreement Exhibits, as listed below, are incorporated herein by reference:

Exhibit A – Scope of Services
Exhibit B – Fiscal Provisions
Exhibit C – Compliance Provisions
Exhibit D – Management District Plan
Exhibit E – Resolution 2018-75

8. TERMS AND CONDITIONS

Contractor warrants that it will comply with all terms and conditions of this Agreement and Exhibits, and all other applicable federal, state and local laws, regulations and policies.

9. INTEGRATION

This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

Executed at _____, California on _____.

COUNTY OF LAKE

CHAIR, Board of Supervisors

ATTEST:
SUSAN PARKER
Clerk to the Board of Supervisors

By: _____

CONTRACTOR

DocuSigned by:
THOMAS BRIAN FISHER
F3317084CCFD4A2 ..

Visit Lake County California

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: Anita L. Grant
anita grant (Jun 21, 2022 08:06 PDT)

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EXHIBIT "A" – SCOPE OF SERVICES

1. CONTRACTOR RESPONSIBILITIES

- 1.1 Contractor shall cooperate with County and County staff in the performance of all work hereunder.
- 1.2 Contractor will provide and fund projects, programs, and activities that benefit lodging establishments within the Lake County Tourism Improvement District, hereinafter referred to as "District". These activities will be in accordance with the Parking and Business Improvement District Law of 1994 (Sections 36600 through 36671, as amended of the California Streets and Highways Code, hereinafter the "Law").
- 1.3 The Board of Supervisors, through adoption of the Management District Plan, has the right pursuant to Streets and Highways Code Section 36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the District as defined Streets and Highways Code Section 36614.5. The Board of Supervisors has determined that Contractor shall be the Owners' Association.
- 1.4 Contractor will act as the "Owner's Association" charged with administering or implementing improvements, maintenance, and activities specified in the previously adopted Management District Plan per Section 36612. This includes, but is not limited to: the promotion of Lake County as an overnight tourism destination, the branding of Lake County as a destination, the provision for direct visitor services, securing the assistance of various partnerships in these endeavors. Funds provided per this agreement shall be used exclusively for the foregoing purpose
- 1.5 Contractor shall cooperate with the local lodging businesses to provide the services, activities and programs to promote tourism and the marketing of the District and related products, including the scenic, recreational, cultural, and other attractions in the District.
- 1.6 Contractor will provide and fund such additional projects, programs and activities to promote tourism in Lake County as may be made possible through other non-Assessment funding sources. These other funds must be accounted for separately from Assessment funds.
- 1.7 Contractor shall annually have completed a financial review by a qualified outside agency. A full financial audit of Contractor shall be required for any year in which said financial review indicates irregularity. Final reports of said review and/or audit(s) shall be provided to the County within a reasonable amount of time.
- 1.8 Contractor is a private entity but shall abide by the transparency requirements detailed in the Section V of the District Management Plan; namely those regulations related to transparency, namely the Ralph M. Brown Act and the California Public Records Act.

2. REPORTING REQUIREMENTS

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Contractor, pursuant to Streets and Highways Code Section 36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the district. Contractor shall post annual report in a format approved by County by the 10th of the month following the report period.

3. RECORDS RETENTION

Contractor shall prepare, maintain and/or make available to County upon request, all records and documentation pertaining to this Agreement, including financial, statistical, property, recipient and service records and supporting documentation for a period of five (5) years from the date of final payment of this Agreement. If at the end of the retention period, there is ongoing litigation or an outstanding audit involving the records, Contractor shall retain the records until resolution of litigation or audit. After the retention period has expired, Contractor assures that confidential records shall be shredded and disposed of appropriately.

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EXHIBIT "B" – FISCAL PROVISIONS

1. CONTRACTOR'S FINANCIAL RECORDS

Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS

2.1 Contractor warrants that it shall comply with all audit requirements established by County and will provide a copy of Contractor's Annual Independent Audit Report, if applicable.

2.2 County may conduct periodic audits of Contractor's financial records, notifying Contractor no less than 48 hours prior to scheduled audit. Said notice shall include a detailed listing of the records required for review. Contractor shall allow County, or other appropriate entities designated by County, access to all financial records pertinent to this Agreement.

2.3 Contractor shall reimburse County for audit exceptions within 30 days of written demand or shall make other repayment arrangements subject to the approval of County.

3. COUNTY RESPONSIBILITIES

County will forward \$78,000 from its Transient Occupancy Tax (TOT) revenues as designated by the Board of Supervisors as part of the 2022-2023 budget. This amount will be divided into two equal payments of \$39,000. The first payment will be made once the agreement has been duly signed by all parties. The second payment will be made no later than January 6, 2023.

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EXHIBIT "C" – COMPLIANCE PROVISIONS

1. INFORMATION INTEGRITY AND SECURITY

Contractor shall immediately notify County of any known or suspected breach of personal, sensitive and confidential information related to Contractor's work under this Agreement.

2. NON-DISCRIMINATION

Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

3. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

3.1 The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:

- A. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- B. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the preceding paragraph; and
- D. Have not, within a three-year period preceding this Agreement, had one or more public transactions terminated for cause or default.

3.2 Contractor shall report immediately to County, in writing, any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by County.

4. AGREEMENTS IN EXCESS OF \$100,000

Contractor shall comply with all applicable orders or requirements issued under the following laws:

- 4.1 Clean Air Act, as amended (42 USC 1857).
- 4.2 Clean Water Act, as amended (33 USC 1368).
- 4.3 Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.)
- 4.4 Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).

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5. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall indemnify and defend County and its officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by County, whether for damage to or loss of property, or injury to or death of person, including properties of County and injury to or death of County officials, employees or agents, arising out of, or connected with Contractor's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence of County.

Contractor's obligations under this Section shall survive the termination of the Agreement.

6. STANDARD OF CARE

Contractor represents that it is specially trained, licensed, experienced and competent to perform all the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Contractor or designated subcontractors, in a manner according to generally accepted practices.

7. INTEREST OF CONTRACTOR

Contractor assures that neither it nor its employees has any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

8. DUE PERFORMANCE - DEFAULT Each party agrees to fully perform all aspects of this agreement. If a default to this agreement occurs then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

9. INSURANCE

9.1 Contractor shall procure and maintain Workers' Compensation Insurance for all of its employees.

9.2 Contractor shall procure and maintain Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverage: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

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- 9.3 Contractor shall procure and maintain Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with Contractor's business in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence.
- 9.4 Contractor shall not commence work under this Agreement until it has obtained all the insurance required hereinabove and submitted to County certificates of insurance naming the County of Lake as additional insured. Contractor agrees to provide to County, at least 30 days prior to expiration date, a new certificate of insurance.
- 9.5 In case of any subcontract, Contractor shall require each subcontractor to provide all of the same coverage as detailed hereinabove. Subcontractors shall provide certificates of insurance naming the County of Lake as additional insured and shall submit new certificates of insurance at least 30 days prior to expiration date. Contractor shall not allow any subcontractor to commence work until the required insurances have been obtained.
- 9.6 For any claims related to the work performed under this Agreement, the Contractors insurance coverage shall be primary insurance as to the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be in excess of the Contractors insurance and shall not contribute with it.
- 9.7 The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

The County, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds and shall be added in the form of an endorsement to Contractor's insurance on Form CG 20 10 11 85. Contractor shall not commence work under this Agreement until Contractor has had delivered to County the Additional Insured Endorsements required herein.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of California Civil Code Section 2782.

- 9.8 Insurance coverage required of Contractor under this Agreement shall be placed with insurers with a current A.M. Best rating of no less than A: VII.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude County from taking other action as is available to it under any other provision of this Agreement or applicable law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

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- 9.9 Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

10. ATTORNEY'S FEES AND COSTS

If any 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 attorney's fees, costs, and necessary disbursements in addition to any other relief to which such part may be entitled.

11. ASSIGNMENT

Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

12. PAYROLL TAXES AND DEDUCTIONS

Contractor shall promptly forward payroll taxes, insurances, and contributions to designated governmental agencies.

13. INDEPENDENT CONTRACTOR

It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result contracted for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees, and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

14. OWNERSHIP OF DOCUMENTS

All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of County.

15. SEVERABILITY

If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

16. ADHERENCE TO APPLICABLE DISABILITY LAW

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Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

17. HIPAA COMPLIANCE

Contractor will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIP AA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.

18. SAFETY RESPONSIBILITIES

Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

19. JURISDICTION AND VENUE

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

20. RESIDENCY

All independent contractors providing services to County for compensation must file a State of California Form 590, certifying California residency or, in the case of a corporation, certifying that they have a permanent place of business in California.

21. NO THIRD-PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in or for the benefit of third parties.

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

RESOLUTION NO. 2018 - 75

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE DECLARING ITS INTENTION TO ESTABLISH THE LAKE COUNTY TOURISM IMPROVEMENT DISTRICT (LCTID) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., authorizes the County to establish business improvement districts for the purposes of promoting tourism; the proposed LCTID will provide specific benefits to assessed lodging businesses by funding marketing and sales promotion programs that are designed to increase room night sales for assessed lodging businesses; this approach has been successfully used in other destination areas throughout the country; and

WHEREAS, lodging business owners, representatives from the cities of Lakeport and Clearlake, and representatives from the County of Lake have met to consider the formation of the Lake County Tourism Improvement District (LCTID); and

WHEREAS, the County of Lake worked with lodging business owners to draft a Management District Plan (Plan) which sets forth the proposed boundary of the LCTID, a service plan and budget, and a proposed means of governance; and

WHEREAS, the proposed district includes lodging businesses in the cities of Lakeport and Clearlake; and

WHEREAS, consent to include lodging businesses in their respective jurisdictions will be requested from the cities of Lakeport and Clearlake; and

WHEREAS, lodging business who will pay more than fifty percent (50%) of the assessment under the LCTID have supported this action by signing petitions in favor of the formation of the LCTID by the Board of Supervisors; and

WHEREAS, notices will be mailed on or before June 22, 2018 regarding the upcoming public meeting held at least ten (10) days after the notice is mailed where lodging business owners can comment; and

WHEREAS, a public hearing will be held at least forty-five (45) days after the notice is mailed; and

WHEREAS, if the Board of Supervisors finds that there is not a majority protest against formation of the proposed LCTID, a Resolution of Formation may be adopted by the Board of Supervisors after the conclusion of the public hearing; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS THAT:

1. The recitals set forth herein are true and correct.
2. The Board of Supervisors finds that lodging businesses that will pay more than fifty percent (50%) of the assessment proposed in the Plan have signed and submitted petitions in support of the formation of the LCTID. The Board of Supervisors accepts the petitions and adopts this Resolution of Intention to establish the LCTID and to levy an assessment on certain lodging businesses within the LCTID boundaries in accordance with the Property and Business Improvement District Law of 1994.
3. The Board of Supervisors finds that the Plan satisfies all requirements of Streets and Highways Code § 36622.
4. The Board of Supervisors declares its intention to establish the LCTID and to levy and collect assessments on lodging businesses within the LCTID boundaries pursuant to the Property and Business Improvement District Law of 1994.
5. The LCTID shall include all lodging businesses located within the boundaries of the cities of Lakeport and Clearlake and the unincorporated area of Lake County, as shown in the map attached as Exhibit A.
6. The name of the district shall be Lake County Tourism Improvement District (LCTID).
7. The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays at a campsite in a unit of the state park system or any facility operated by a local government entity; and stays pursuant to contracts executed prior to September 1, 2018.
8. The assessments levied for the LCTID shall be applied toward sales promotion and marketing programs to market assessed lodging businesses in Lake County as tourist, meeting, and event destinations, as described in the Plan. Funds remaining at the end of any year may be used in subsequent years in which LCTID assessments are levied as long as they are used consistent with the requirements of this resolution and the Plan.
9. The proposed LCTID will have a five (5) year term, beginning September 1, 2018 through August 30, 2023, unless renewed pursuant to Streets and Highways Code § 36660.
10. Bonds shall not be issued.
11. The time and place for the public meeting to hear testimony on establishing the LCTID and levying assessments are set for July 24, 2018, at 9:30 AM, or as soon thereafter as the matter may be heard, at the Board Chambers located at 255 North Forbes Street, Lakeport, CA 95453.
12. The time and place for the public hearing to establish the LCTID and the levy of assessments are

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

set for August 7, 2018, at 9:30 AM, or as soon thereafter as the matter may be heard, at the Board Chambers located at 255 North Forbes Street, Lakeport, CA 95453. The Clerk of the Board is directed to provide written notice to the lodging businesses subject to assessment of the date and time of the meeting and hearing, and to provide that notice as required by Streets and Highways Code § 36623, no later than June 22, 2018.

13. At the public meeting and hearing the testimony of all interested persons for or against the establishment of the LCTID may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the lodging businesses within the proposed LCTID that will pay more than fifty percent (50%) of the estimated total assessment of the entire LCTID, no further proceedings to establish the LCTID shall occur for a period of one year.
14. The complete Plan is on file with the Clerk of the Board and may be reviewed upon request.
15. This resolution shall take effect immediately upon its adoption by the Board of Supervisors.

THIS RESOLUTION was passed by the Board of Supervisors of the County of lake at a regular meeting thereof held on June 19, 2018, by the following vote:

AYES: Supervisors Simon, Smith, Scott and Steele

NOES: None

ABSENT OR NOT VOTING: Supervisor Brown

ATTEST: CAROL J. HUCHINGSON

Clerk of the Board

By: 

Deputy




Chair, Board of Supervisors

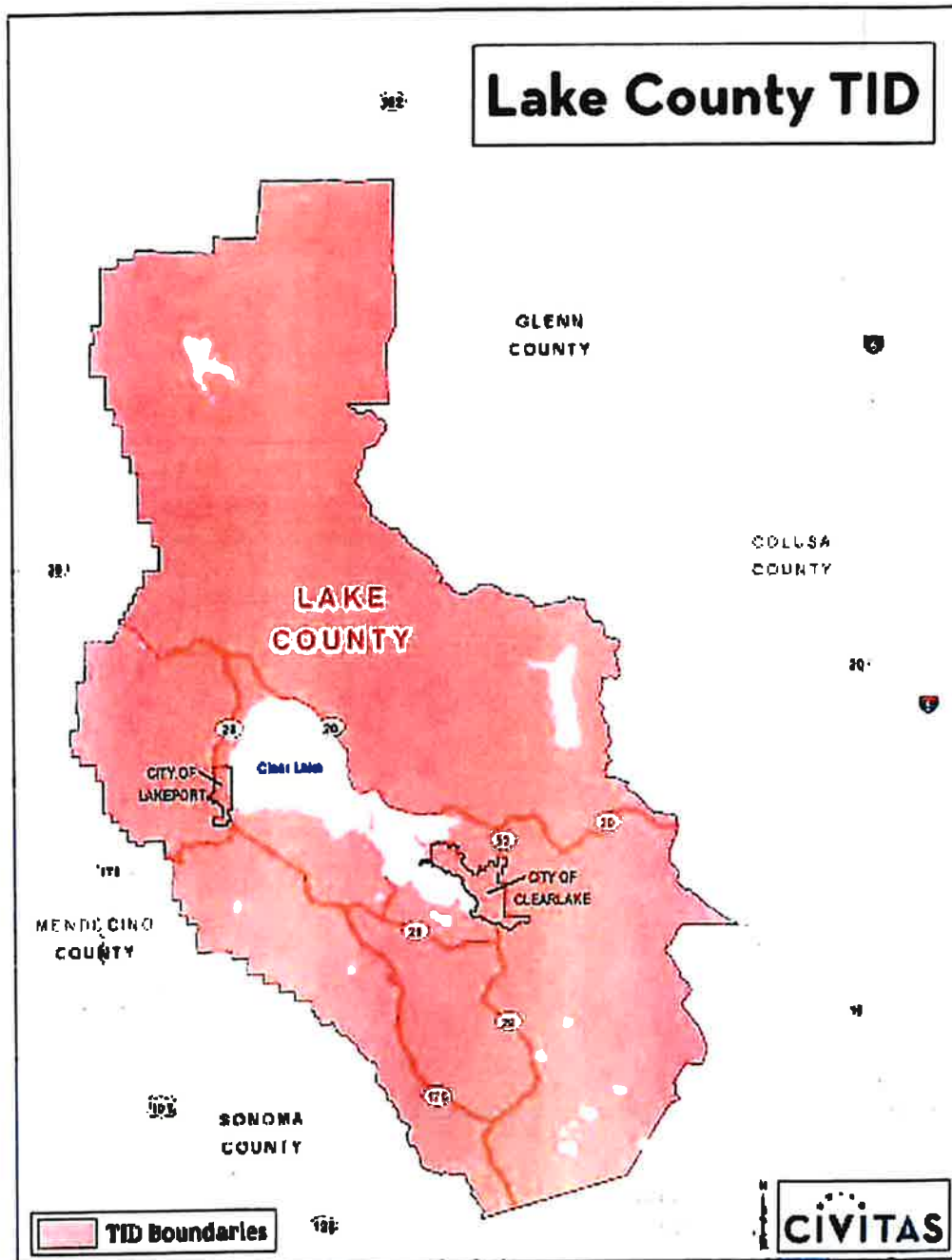
APPROVED AS TO FORM;

ANITA L. GRANT

County Counsel

By: 

EXHIBIT A
District Boundaries








Agreement_Visit Lake County_2022-23 sigs

Final Audit Report

2022-06-21

Created:	2022-06-20
By:	Johanna Delong (Johanna.DeLong@lakecountyca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUK_UX_dFJR4572RSPcH7RspJK_ZzGflo

"Agreement_Visit Lake County_2022-23 sigs" History

-  Document created by Johanna Delong (Johanna.DeLong@lakecountyca.gov)
2022-06-20 - 9:41:40 PM GMT- IP address: 208.91.28.66
-  Document emailed to anita grant (anita.grant@lakecountyca.gov) for signature
2022-06-20 - 9:43:11 PM GMT
-  Email viewed by anita grant (anita.grant@lakecountyca.gov)
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-  Document e-signed by anita grant (anita.grant@lakecountyca.gov)
Signature Date: 2022-06-21 - 3:06:51 PM GMT - Time Source: server- IP address: 208.91.28.66
-  Agreement completed.
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