

AGREEMENT FOR 6th CYCLE (2019-2027) HOUSING ELEMENT UPDATE

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as “County”, and EMC Planning Group Inc., hereinafter referred to as “Contractor”, collectively referred to as the “parties”.

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, EMC Planning Group Inc. 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. 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, the Agreement shall prevail.

2. **TERM.** This Agreement shall commence on April 7, 2020 and shall terminate on April 30, 2021 unless earlier 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 “A” (Scope of Services), attached hereto. Compensation to Contractor shall not exceed Fifty-One Thousand Nine Hundred and Sixty Dollars (\$51,960).

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 Scott De Leon, Interim Community Development Department Director.

6. **NOTICES.** All notices between the parties shall be in writing addressed as follows:

County of Lake
Community Development Department
255 N. Forbes Street
Lakeport, CA 95453
Attn: Scott De Leon

EMC Planning Group Inc.
301 Lighthouse Avenue, Suite C
Monterey, CA 93940
Attn: Martin Carver

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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

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 Lakeport, California on April 7, 2020.

COUNTY OF LAKE

CONTRACTOR

CHAIR, Board of Supervisors

EMC Planning Group Inc.

ATTEST:
CAROL J. HUCHINGSON
Clerk to the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: _____

By: _____

EXHIBIT “A” – SCOPE OF SERVICES

1. **CONTRACTOR RESPONSIBILITIES.**

Task 1 Local Early Action Planning Grant

1.1 Administration and Research. Gather all of the materials and information needed, including information available from County staff and phone consultations with HCD staff, as necessary.

1.2 Application Preparation. Prepare the documentation necessary for a complete application package. The application package will include and demonstrate the following:

- Budget, timelines, deliverables, sub-steps and adoption, that demonstrates funds will be utilized for eligible activities and uses;
- How proposed activities will increase housing planning and facilitate accelerating local housing production; and
- Consistency with the state or other planning priorities; and
- All other required information contained in California Department of Housing and Community Development’s application.

1.2 Application Submittal. After the County has reviewed a draft copy of the submittal, consultant will make necessary changes, create the grant application package with all required items as requested by HCD, and submit on behalf of the County within the first ten days following award of the housing element contract.

Task 2 Communications and Administration

2.1 Project Kick-off Meeting. Discuss project goals, issues, availability of reference materials, work product expectations, communications protocols, public outreach logistics, and response to HCD comments.

2.2 Meetings with County Staff. Meet with County staff, other agencies’ staff, and public officials to gather information, strategize on solving problems, and to present information as it is developed. To reduce travel costs, in-person meetings will coincide with scheduled field work, public workshops, and scheduled presentations at the Planning Commission and Board of Supervisors.

2.3 Progress Teleconferences. Once a month, participate in a check-in call to present written monthly progress reports and to discuss current project issues. Each call will conclude with a re-cap of resulting action items. Each call is estimated to last one-half hour, with an additional half-hour of preparation and summary time for each.

2.4 HCD Liaison. Consult with State Housing and Community Development (HCD) to confirm Housing Element analysis, approach, timelines, requirements, and HCD comments on drafts.

2.5 General Administration. This task includes opening project files, background research, invoicing, and similar tasks.

Task 3 Public Outreach and Input

3.1 Outreach. Work with County staff to confirm a list of organizations to coordinate with during the update process and to include in workshop invitations. This effort will include outreach to tribal units for both the housing element (general plan) update process and the CEQA review process. Contact organizations and persons on the list to solicit input on the update process.

3.2 Workshops. Attend two (2) workshops to identify local issues and County objectives and solicit public input and direction on the Housing Element update. The workshops will be conducted on two consecutive nights—one in Lakeport that could be part of a regular Planning Commission or County Board of Supervisors meeting, and one probably in Hidden Valley Lake (TBD). EMC Planning Group will prepare workshop flyers and the workshop agenda, and will rely on County staff to provide Spanish translations. It is also assumed the County will distribute/publish workshop flyers, provide venues, and handle logistics for the chosen venues.

Task 4 Address HCD Comments on 2019-2027 Draft Housing Element

4.1 Review Past Program. Work with County staff to analyze the county's accomplishments over the previous planning period, including a complete update of past programs, information on implementation progress, and an evaluation of program effectiveness.

4.2 Housing Needs Assessment. Review and revise current analysis of housing needs contained in the Administrative Draft document, including Lake County's Regional Housing Needs Allocation (RHNA). This will include carrying over the RHNA from the 5th Housing Element Cycle and evaluating what progress has been made in housing development in the various income categories since 2012. This will also include an estimate of the number of homeless individuals and families in need of emergency shelter.

4.3 Housing Conditions. Using the 2002 Housing Conditions Survey as a starting point conduct interviews with knowledgeable builders/developers, including nonprofit housing developers or organizations to evaluate the condition of existing housing stock and estimate the number of units in need of rehabilitation and replacement. This effort will include an analysis of the effects of recent wildfires on the condition of the existing housing stock. This effort would not include a windshield survey.

4.4 Vacant Sites Inventory. Coordinate with County staff to complete an adequate housing site inventory to ensure conformance with California housing law. This will include analysis for

sites that are larger than 10 acres in size, as well as an analysis for partially vacant sites. It will also include an adequate analysis of site suitability and the availability of infrastructure.

4.5 Governmental and Non-Governmental Constraints. Analyze existing development regulations for impacts on housing development, including design review, required on and off-site improvements, codes and enforcement, applicable inclusionary and short-term rental ordinances, and minor use permits for multi-family housing.

4.6 Housing Goals and Policies. Review and evaluate goals and policies for housing based on consultation with County staff, policy makers, and community members, and workshop input. This would include, but not necessarily be limited to: new or revised programs addressing adequate sites for new construction, no net loss of housing sites, multi-family development by right for rezoned sites, transitional and supportive housing, emergency shelters, affirmatively further fair housing, low barrier navigation centers, and the removal of other government constraints. This effort will also include revisions to existing housing programs to ensure that all programs include appropriate completion dates.

4.7 Resolve Other HCD Comments/Concerns. Based on HCD's January 7, 2020 comment letter, work with HCD and the County to resolve any issues not addressed above. EMC Planning Group will work directly with the HCD Analyst to ensure that the public review draft that is considered by the Planning Commission and the Board of Supervisors has the support of HCD, so that certification is assured after Board of Supervisors action.

Task 5 Prepare Revised Draft Housing Element

5.1 Revised Administrative Draft Housing Element. Consolidate work from Tasks 2 and 3 into a revised administrative draft housing element with tracked changes. Provide an electronic copy and two (2) printed copies to County for review and comment.

5.2 Proof Draft Housing Element. Based on County electronic or written comments, make final changes to the housing element and provide an electronic copy to County by email for County review and approval.

5.3 Public Draft Housing Element. Upon County approval, make final revisions and provide ten (10) printed copies, one (1) editable word document file, and one (1) PDF file of a public review draft housing element. Submit printed copies to County for public availability and use by Planning Commission and County Board of Supervisors.

Task 6 CEQA Documentation

6.1 Determine CEQA Strategy. Work with County staff to determine an appropriate strategy for complying with the California Environmental Quality Act (CEQA). Possible approaches include use of one or more CEQA exemptions or the preparation of an initial study and negative declaration/mitigated negative declaration. For the purpose of this proposal, EMC Planning Group assumes that an initial study/negative declaration will be prepared.

6.2 Draft Initial Study. Prepare a draft CEQA checklist initial study assessing any new or substantially revised policies or programs in the housing element update.

6.3 Revised Initial Study. Revise initial study per County staff comments.

6.4 Negative Declaration or Mitigated Negative Declaration. Prepare a Negative Declaration or Mitigated Negative Declaration, using the initial study as an attachment. This assumes that no special studies are needed that require outside expertise (i.e., traffic analysis, noise analysis, or Phase 1 environmental hazards assessment). This also assumes that County staff will be responsible for posting notices with OPR and the County Clerk (and paying any applicable California Fish and Wildlife fee) and distributing CEQA documents for public review.

Task 7 Final Adoption and Certification

7.1 Staff Reports, Resolutions, Findings. Prepare staff reports for one (1) Planning Commission hearing and one (1) County Board of Supervisors hearing, and prepare resolutions for each to recommend/approve the Housing Element. The resolutions will include the CEQA and project findings to support recommendation/ approval.

7.2 Public Hearings Attendance. Attend one (1) Planning Commission hearing and one (1) County Board of Supervisors hearing to present the Housing Element, highlight modifications from the prior housing element, and answer questions.

7.3 Final Housing Element. Prepare the final housing element per direction for revisions (if any) from the County Board of Supervisors.

7.4 Certification Submittal. Submit one electronic copy of the final housing element with a copy of the County's signed adoption resolution to HCD for certification, along with a cover letter to be provided to the County for printing on County letterhead.

7.5 Certified Housing Element. If further changes are requested, revise the final housing element and re-submit to HCD. This scope of work only includes very minor adjustments for this task. Following certification by the HCD, prepare certified housing element that includes a copy of the County adoption resolution and evidence of HCD certification. Print ten (10) copies, one (1) editable word document file, and one (1) PDF file of the certified housing element and provide to the County.

8. REPORTING REQUIREMENTS. Contractor shall conduct monthly teleconference reports in a format approved by County by the 10th of the month following the report period.

9. 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.

4. COUNTY RESPONSIBILITIES.

- 4.1** County will review draft LEAP application prior to submitting to HCD.
- 4.2** County staff will provide resource documents and share their knowledge of the County's geography.
- 4.3** County staff will identify key stakeholders in the process and make the necessary arrangements for public meetings.
- 4.4** County staff will inform the EMC Planning Group's planners about community sensitivities.

EXHIBIT “C” – 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. INVOICES.

2.1 Contractor’s invoices shall be submitted in arrears on a monthly basis, or such other time that is mutually agreed upon in writing, and shall be itemized and formatted to the satisfaction of the County.

2.2 County shall make payment within 20 business days of an undisputed invoice for the compensation stipulated herein for supplies delivered and accepted or services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

3. AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS

3.1 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.

3.2 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.

3.3 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.

4. BUDGET. The Contractor shall submit, in advance, a detailed budget, in the format provided by County for review and approval by the County. Contractor shall be compensated only for expenses included in the approved budget. Modification to the budget must be approved in advance by the County.

5. EXPENDITURE OF FUNDS.

5.1 Funds payable through this agreement shall not be used to purchase food or promotional merchandise or to attend conferences unless specifically approved in the budget.

5.2 County reserves the right to refuse payment to Contractor or disallow costs for any expenditure determined to be unreasonable, out of compliance, or inappropriate to the services provided hereunder.

EXHIBIT “B” – 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).
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

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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 90 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.

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.

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9.4 Contractor shall procure and maintain Professional Liability Insurance for the protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which Contractor is liable. Said insurance shall be written with limits of not less than one million dollars (\$1,000,000).

9.5 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.

9.6 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.

9.7 For any claims related to the work performed under this Agreement, the Contractor's 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 Contractor's insurance and shall not contribute with it.

9.8 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.

9.9 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.

9.10 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. 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 (HIPAA) 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

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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.