

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF LAKE AND REGIONAL HOUSING AUTHORITY
FOR HOUSING CONSULTANT SERVICES**

18-HOME-12585

THIS AGREEMENT, is entered into as of October 1, 2020, between the COUNTY OF LAKE, through its Department of Social Services, referred to as COUNTY, and REGIONAL HOUSING AUTHORITY, referred to as AGENCY, with reference to the following:

A. WHEREAS, COUNTY has entered into a Standard Agreement (hereafter "STANDARD AGREEMENT") to receive funding from the HOME Investment Partnerships Program, referred to as HOME, from the State of California, Department of Housing and Community Development, referred to as HCD, to finance the County of Lake Owner Occupied Rehabilitation (hereafter "OOR") and First Time Homebuyer (hereafter "FTHB") Programs, referred to as PROGRAMS; and

B. WHEREAS, AGENCY meets the requirements as outlined by the HOME Program and COUNTY's procurement requirements and has expertise in carrying out OOR and FTHB programs; and

C. WHEREAS, COUNTY wishes to enter into a professional services agreement with AGENCY for purposes of implementing the PROGRAMS mentioned above utilizing HOME funds; and

ACCORDINGLY, IT IS AGREED:

1. TERM: This Agreement shall become effective upon the aforementioned date and shall expire on September 30, 2023.

2. SERVICES: AGENCY agrees to provide program administration services for the PROGRAMS as described in Scope of Work Attachments A-1 and A-2, and to be compensated by COUNTY as outlined below in Paragraph 3, PAYMENT FOR SERVICES.

3. PAYMENT FOR SERVICES: COUNTY shall pay AGENCY a sum not to exceed \$ 69,901. This amount is an administrative fee based on 22% of each OOR loan/grant amount and 7% of each FTHB loan/grant amount plus general administration costs. Payment for services provided pursuant to this Agreement subject to the following conditions:

- a. County of Lake OOR Program and County of Lake FTHB Program
 - i. Up to \$10,000 of HOME funds will be spent only for HOME-eligible General Administration costs, as defined by HCD and outlined in SCOPE OF WORK (Attachments A-1 and A-2) and PROGRAM GUIDELINES.

ii. Up to \$59,901 of HOME funds will be spent for HOME-eligible Activity Delivery costs, as defined in SCOPE OF WORK (Attachment A-1 and A-2) and PROGRAM GUIDELINES.

iii. The cost breakdown of services provided to the PROGRAM is defined in AGENCY BUDGET, attached as Exhibit B.

iv. The COUNTY will reimburse AGENCY an administrative fee up to 22% for each loan/grant funded under the County of Lake OOR Program and up to 7% for each loan/grant funded under the County of Lake FTHB Program, plus general administration costs.

b. General Conditions

i. The compensation to be provided to AGENCY under this Agreement will be reduced due to any inability to provide services, whether such an inability is due to AGENCY activities or other activities or circumstances beyond the control of AGENCY.

ii. COUNTY must approve budget changes in writing prior to any budget adjustment or amendment. The budget adjustment and amendment process is outlined in AGENCY BUDGET.

iii. Following the close of each quarter (March, June, September, December), AGENCY shall submit invoice statements stating the services provided and the actual costs of the previous quarter.

iv. Invoices shall be in the form and contain the information requested by COUNTY and shall be subject to approval by COUNTY, which approval shall not be unreasonably withheld. COUNTY will make payments within sixty (60) days of receipt of approved invoice. COUNTY will notify AGENCY of any objections, questions, or complaints regarding any particular invoice within thirty (30) days of receipt of such invoice. If COUNTY determines that any amounts were improperly billed and/or paid to AGENCY, or AGENCY was improperly underpaid, adjustments by such amounts may be made in the payment on the current or a later invoice with explanation provided. No interest or penalties shall accrue for late payments.

4. PERFORMANCE REQUIREMENTS: AGENCY shall be held to the same goals, milestones, performance measurements, laws, regulations and requirements as entered into by COUNTY in the STANDARD AGREEMENT and outlined in the SCOPE OF WORK.

5. REPORTING REQUIREMENTS: COUNTY will prepare and file any necessary reports required by HCD. AGENCY shall assist COUNTY in the preparation of said reports.

6. COMPLIANCE WITH LAW: AGENCY shall provide services in accordance with all of the provisions of Federal, State, and local laws; current and future enacted Federal, State, and local governmental guidelines, policies and available funding covenants; and the rules and regulations governing the HCD HOME Program. With respect to AGENCY'S employees, AGENCY shall comply with all laws and regulations pertaining to wages and hours, State and Federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment. In addition, AGENCY agrees to fully comply with all Federal, State and local laws, regulations, and directives that apply to the work involved in the project, including but not limited to the applicable laws and regulations specified in the STANDARD AGREEMENT and COMPLIANCE REQUIREMENTS attached as Exhibit "C".

7. RECORDS: AGENCY shall maintain complete and accurate records required by the Federal regulations that are pertinent to the activities to be funded under this Agreement. In addition, AGENCY shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All books, records, accounts, documentation, and all other materials relevant to the PROGRAMS shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, AGENCY shall make all such records available to the Auditor and to his agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the expiration date of this Agreement or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement, and any amendments, whichever is later.

8. MONITORING: COUNTY will monitor AGENCY during the term of this Agreement for compliance with any or all applicable requirements and for attainment of expenditure milestones and PROGRAMS' goals outlined in SCOPE OF WORK.

9. INSURANCE: Prior to approval of this Agreement by COUNTY, AGENCY shall file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in INSURANCE REQUIREMENTS attached as Exhibit "D".

10. AGENCY STATUS:

a. This Agreement is entered into by both parties with the express understanding that AGENCY will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute AGENCY or any of its agents, employees or officers as an agent, employee or officer of COUNTY.

b. AGENCY agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of COUNTY. Subject to any performance criteria contained in this Agreement, AGENCY shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over AGENCY as to how the services will be performed. As AGENCY is not COUNTY'S employee, AGENCY is responsible for paying all required State and Federal taxes. In particular, COUNTY will not:

- i. Withhold FICA (Social Security) from AGENCY'S payments.
 - ii. Make State or Federal unemployment insurance contributions on AGENCY'S behalf.
 - iii. Withhold State or Federal income tax from payments to AGENCY.
 - iv. Make disability insurance contributions on behalf of AGENCY.
 - v. Obtain unemployment compensation insurance on behalf of AGENCY.
- c. Notwithstanding this independent contractor relationship, COUNTY shall have the right to monitor and evaluate the performance of AGENCY to assure compliance with this Agreement.

11. INDEMNIFICATION:

a. To the fullest extent permitted by law, AGENCY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by AGENCY or its agents, officers and employees under this Agreement. Such indemnification obligations shall not be limited in any way by any limitation or the amount or type of damages, compensation or benefit payable by or for either party under worker's or workmen's compensation, disability benefits or other employee entitlements. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by AGENCY under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for AGENCY'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

b. To the fullest extent permitted by law, COUNTY shall hold harmless, defend and indemnify AGENCY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including AGENCY property, arising from, or in connection with, the performance by COUNTY or its agents, officers and employees under this Agreement. Such indemnification obligations shall not be limited in any way by any limitation or the amount or type of damages, compensation or benefit payable by or for either party under worker's or workmen's compensation, disability benefits or other employee entitlements. This indemnification specifically includes any claims that may be made against AGENCY by any taxing authority asserting that an employer-employee

relationship exists by reason of this Agreement, and any claims made against AGENCY alleging civil rights violations by COUNTY under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on AGENCY for COUNTY'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

12. CONFLICT OF INTEREST:

a. AGENCY agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including AGENCY for this purpose, from the making of any decision on behalf of COUNTY in which such officer, employee or AGENCY has a direct or indirect financial interest. A violation can occur if the public officer, employee or AGENCY participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on AGENCY or any business firm in which AGENCY has an interest, with certain narrow exceptions.

b. No covered persons who exercise or have exercised any functions or responsibilities with respect to HOME-assisted activities under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial contract, subcontract, or agreement with respect to a HOME-assisted activity, or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

c. AGENCY agrees that if any facts come to its attention, which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform COUNTY designated representative and provide all information needed for resolution of this question.

13. TERMINATION:

a. Without Cause: COUNTY will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. COUNTY will pay to AGENCY the compensation earned for work performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from AGENCY of any and all plans, specifications and estimates, and other documents prepared by AGENCY in accordance with this Agreement. No sanctions will be imposed.

b. With Cause: This Agreement may be terminated by either party should the other party:

- i. be adjudged a bankrupt, or
- ii. become insolvent or have a receiver appointed, or
- iii. make a general assignment for the benefit of creditors, or
- iv. suffer any judgment which remains unsatisfied for thirty (30) days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- v. materially breach this Agreement. Material breach includes but is not limited to AGENCY failing to perform obligations under this Agreement, and AGENCY failing to perform obligations in accordance with the PROGRAMS' time schedules set forth in the STANDARD AGREEMENT.

For any of the occurrences except item v., termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the reasonable satisfaction of the non-defaulting party within thirty (30) days of the receipt of written notice specifying the breach. If the breach is not remedied within that thirty (30) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a thirty (30) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination. COUNTY will pay to AGENCY the compensation earned for work performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss, nor will COUNTY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination.

c. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

d. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of COUNTY for which AGENCY'S services are to be performed, may immediately suspend performance by AGENCY, in whole or in part, in

response to health, safety or financial emergency, or a failure or refusal by AGENCY to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

14. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between AGENCY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

15. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

16. NOTICES:

a. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

Crystal Markytan

Director, Department of Social Services

P.O. Box 9000

Lower Lake, CA 95457

Phone No.: (707) 996-4260

Fax No.: (707) 995-4294

AGENCY:

Gustavo Becerra

Executive Director

1455 Butte House Road

Yuba City, CA 95993

Phone No.: (530) 671-0220 ext. 113

Fax No.: (530) 674-8505

b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth (5th) day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

17. CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

18. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or

equitable right or remedy.

19. **GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Lake County, California. AGENCY waives the removal provisions of California Code of Civil Procedure section 394.

20. **WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

21. **EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

22. **CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

23. **FURTHER ASSURANCES:** Each party will execute any additional documents and perform any further acts which may be reasonably required to effect the purposes of this Agreement.

24. **ASSURANCES OF NON-DISCRIMINATION:** AGENCY shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by State or Federal law or regulation.

25. **ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, COUNTY is relying on the personal skill, expertise, training and experience of AGENCY and AGENCY'S employees and no part of this Agreement may be assigned or subcontracted by AGENCY without the prior written consent of COUNTY.

26. **DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.

27. PROFESSIONAL MANNER: AGENCY shall provide the services contemplated by the Agreement in a professional manner and quality satisfactory to the COUNTY.

28. DOCUMENT OWNERSHIP: All finished or unfinished documents, data, studies, computer programs, methodological explanations, surveys, models, photographs, and reports prepared by AGENCY under the Agreement shall be considered the property of the COUNTY. Upon completion of the services to be performed or upon termination of the Agreement, these materials shall be turned over to the COUNTY, provided that in any case AGENCY may, at no additional expense to the COUNTY, make and retain copies thereof as it desires. AGENCY further agrees to keep those materials, which may not be public records under the laws of the State of California confidential.

29. FUNDING CLAUSE: AGENCY acknowledges that COUNTY is dependent upon certain Federal and State funding to pay for the PROGRAMS provided for in this Agreement. If COUNTY is awarded the HOME funding from HCD to fund the PROGRAMS, this Agreement will become effective. If such funding is discontinued or reduced, COUNTY may exercise its sole discretion to reduce the amount of OOR and/or FTHB Program funds or terminate the Agreement by giving the AGENCY 30 calendar days notice of the reduction or termination.

30. IMPROPER USE OF FUNDS: To the fullest extent permitted by law, AGENCY shall hold harmless, defend and indemnify COUNTY from any liability, action or losses incurred by COUNTY as a result of AGENCY'S improper use of funds under this Agreement.

31. CLOSE-OUTS: AGENCY'S obligation to COUNTY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to COUNTY), and determining the custodianship of records.

32. ATTORNEY FEES: If either party shall initiate legal proceedings to enforce or construe the terms of this agreement, or for damages, the prevailing party shall be entitled to its attorney's fees.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Executed at _____, California on _____.

COUNTY OF LAKE

AGENCY

CHAIR, Board of Supervisors



GUSTAVO BECERRA, Executive Director

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

APPROVED AS TO FORM:
ANITA L. GRANT

County Counsel

By: _____

By: 

ATTACHMENT "A-1" – SCOPE OF WORK

County of Lake Owner Occupied Rehabilitation (OOR) Program (PROGRAM)

PROGRAM OBJECTIVE

The purpose of the PROGRAM is to complete rehabilitation of eligible housing units located in the County of Lake. The units must be occupied by members of the Low to Moderate Income Group (LMI) as defined by the U.S. Department of Housing and Urban Development (HUD) and HCD.

PROGRAM GOALS

AGENCY shall be held to the same goals, milestones, performance measurements and requirements as entered into by COUNTY in the STANDARD AGREEMENT. AGENCY will assist COUNTY in the achievement of the following PROGRAM goals by the contract expiration date:

1. Complete an estimated five (5) OOR projects as required to fully expend COUNTY's OOR loan fund.

PROGRAM SERVICES

COMPENSABLE SERVICES: AGENCY will perform the following compensable services as outlined in PROGRAM GUIDELINES in implementation of PROGRAM activities, including administration and expenditure of HOME Program Income.

1) Refinement of OOR program plans, procedures and forms: subject to review and approval by COUNTY, AGENCY will establish, or make any necessary revisions to, the OOR program design and procedures (including but not limited to the priorities among applicants and among rehabilitation measures, the limits and structure of financial assistance, and the recapture and affordability policies), as well as any other necessary forms, documents or sample contracts.

2) Outreach: AGENCY will conduct sufficient advertisement of the OOR program and other forms of outreach to ensure that enough eligible applicants participate in the program to meet the OOR program goals.

3) Intake/assessment of eligibility: AGENCY will assist property owners and residents in the completion of applications to permit eligibility determinations for rehabilitation assistance. AGENCY will make provision for translation services to meet the needs of non-English-speaking applicants. In the event of applicants who have impaired mobility or other disabilities, AGENCY will make provisions for completing the application at the applicant's residence or other acceptable procedures for ensuring equal access to services.

Initial eligibility determination of households/structures will be made by the AGENCY on the basis of satisfaction of income requirements, the apparent need for rehabilitation measures to correct relevant housing code or Housing Quality Standard (HQS) deficiencies, and any other pertinent criteria set forth in the approved program design.

4) Work write-ups: for each eligible unit to be assisted, AGENCY will complete a detailed work write-up of the rehabilitation to be performed, including estimated costs of each activity, materials to be used, and industry or regulatory standards to be met. This write-up will be initialed and dated by the homeowner.

5) Solicitation and selection of contractors: AGENCY will assist approved applicants in the identification, proper solicitation, and selection of contractors qualified to perform the authorized rehabilitation of eligible housing units. AGENCY will provide forms and sample contract formats for the applicants to use in contracting with the contractors and will assist the applicant in ensuring that the description of the work contained in any contracts with contractors is accurate and complete.

6) Loan Review Committee: COUNTY will establish and maintain a loan review committee. The loan review committee will review all loan recommendations presented to it by the AGENCY. No loan will be made under the OOR program without the approval of a majority of the members of the loan review committee.

7) Loan closing: With the authorization of the County Loan Review Committee, the AGENCY will execute all necessary documents and will coordinate with COUNTY the drawdown of funds as necessary to cover the expenses of approved applicants for activities authorized by executed loan agreements. The loan documents executed with applicants will include explicit provisions describing a) the occupancy requirements and other standards to maintain the eligibility of the HOME expenditures, and b) the conditions and procedures under which late payment penalties, default and/or foreclosure will occur.

8) Periodic and final inspections: AGENCY will perform periodic site visits to ascertain that approved and contracted rehabilitation work is proceeding properly and satisfactorily, will authorize (with the owner's written approval, including signature and date) appropriate change orders, and will mediate in the event of owner dissatisfaction with the work done by the contractor.

9) Approval of contractor payments: as rehabilitation progresses and as invoices are submitted by contractors, AGENCY will verify that the expenses are reasonable and the work has been completed properly (including a sign-off by the owner), and will authorize drawdown of funds from COUNTY, and disbursement to the contractors.

10) Maintenance of case files and other records: for each applicant, AGENCY will maintain case files, including application and documentation of eligibility, work write-ups, the assistance agreement between the property owner and COUNTY (along with repayment provisions, documentation of liens and any other forms of security), contractor selection criteria, copy of contract between owner and contractors, documentation on all necessary licenses and permits, site visit/inspection reports (including final inspection), change orders, and approved contractor

invoices for payment (with owner sign-off). AGENCY will also maintain appropriate information on persons residing in the property, including a list or lists identifying persons in a project immediately before the project, after project completion, and those moving in during the project, as well as information on those displaced or temporarily relocated.

PROJECT SCHEDULE

Unless amended by mutual written agreement by AGENCY and COUNTY, AGENCY will perform the described OOR tasks and complete the rehabilitation of eligible units in a timely manner.

OTHER PROGRAM REQUIREMENTS

- 1) **Affordability provisions (Not Applicable for HOME):** For activities benefiting low- and moderate-income persons, AGENCY must adopt and make public the COUNTY's standards for determining that for rental housing assisted under the program, the rents of units occupied by low- and moderate-income persons are "affordable."
- 2) **Davis-Bacon requirements and other Labor Standards:** These statutes require the payment of prevailing wages for HOME-assisted construction work, including construction or rehabilitation of residential property containing eight units or more, in excess of \$2,000. The Contract Work Hours and Safety Standards Act also applies to such activities.
- 3) **Historic Preservation [16 U.S.C. 470 *et seq.* and 36 CFR Part 800]:** These requirements mandate (a) consultation with specified agencies having responsibility for historic preservation to identify properties listed (or eligible for inclusion) in the National Register of Historic Places that may be subject to adverse effects by the proposed HOME activities, and (b) compliance with procedures or other requirements to avoid or mitigate such adverse effects.
- 4) **National Flood Insurance Program:** If a community has had notice for more than a year that an area has been identified by FEMA as having special flood hazards, HOME funds cannot be spent for acquisition or construction purposes within that area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question.
- 5) **Relocation, Real Property Acquisition, and One-For-One Housing Replacement:** The acquisition of real property for a HOME-assisted project and the displacement of any person (family, individual, business, non-profit organization or farm) as a direct result of acquisition, rehabilitation, demolition or conversion for a HOME-assisted project must comply with 49 CFR part 24. AGENCY must also conduct its HOME activities so as to minimize displacement, and if displacement occurs, the displaced persons or entities must be provided assistance consistent with the Uniform Relocation Act, as amended, or Section 104(d), as applicable. In addition, there must be a one-for-one replacement of any occupied (or vacant, occupiable)

low- and moderate-income dwelling that is demolished or converted to another use in connection with a HOME-funded activity.

- 6) **Lead-based Paint [24 CFR Part 35]:** There is a general prohibition against the use of any lead-based paint in connection with any HOME activity involving the construction or rehabilitation of residential structures. If the structure was constructed prior to 1978, the tenants or purchasers must be notified of the hazards of lead-based paint poisoning; and, depending on the level of Federal assistance made available to the structure, paint inspection, risk assessment, treatment and/or abatement must be provided.

ATTACHMENT "A-2" – SCOPE OF WORK

County of Lake First Time Homebuyer (FTHB) Program (PROGRAM)

PROGRAM OBJECTIVE

The purpose of the PROGRAM is to provide low-interest loans to homebuyers purchasing a home located in the County of Lake. The homebuyer(s) must be members of the Low to Moderate Income Group (LMI) as defined by the U.S. Department of Housing and Urban Development (HUD) and HCD.

PROGRAM GOALS

AGENCY shall be held to the same goals, milestones, performance measurements and requirements as entered into by COUNTY in the STANDARD AGREEMENT. AGENCY will assist COUNTY in the achievement of the following PROGRAM goals by the contract expiration date:

1. Close on an estimated three (3) FTHB loans as required to fully expend COUNTY's FTHB loan fund.

PROGRAM SERVICES

COMPENSABLE SERVICES: AGENCY will perform the following compensable services as outlined in PROGRAM GUIDELINES in implementation of PROGRAM activities.

1) Refinement of FTHB program plans, procedures and forms: subject to review and approval by COUNTY, AGENCY will establish, or make any necessary revisions to, the FTHB program design and procedures (including but not limited to the priorities among applicants, underwriting criteria, the limits and structure of financial assistance, and the recapture and affordability policies), as well as any other necessary forms, documents or sample contracts.

2) Outreach: AGENCY will conduct sufficient advertisement of the FTHB program and other forms of outreach to ensure that enough eligible applicants participate in the program to meet the FTHB program goals.

3) Completion of loan applications; underwriting assessment: AGENCY will assist homebuyers in completing loan applications, and will perform an assessment of each loan application to determine the HOME eligibility of the loan. Initial eligibility determination of households will be made by the AGENCY on the basis of satisfaction of income requirements, eligibility of the property being purchased, and any other pertinent criteria set forth in the approved program design.

AGENCY will complete all work necessary to determine loan feasibility including obtaining appraisal, estimates of market value, credit reports and title reports, set up of lead risk assessment, if applicable, evaluating the financial condition of the applicant and summarizing any critical issues.

4) Loan Review Committee: COUNTY will establish and maintain a loan review committee. The loan review committee will review all loan recommendations presented to it by the AGENCY. No loan will be made under the FTHB loan program without the approval of a majority of the members of the loan review committee.

5) Loan closing: With the authorization of the County Loan Review Committee, the AGENCY will execute all necessary documents and will coordinate with COUNTY the drawdown of funds as necessary to cover the expenses of approved applicants for activities authorized by executed loan agreements. The loan documents executed with applicants will include explicit provisions describing a) the occupancy requirements and other standards to maintain the eligibility of the HOME expenditures, and b) the conditions and procedures under which late payment penalties, default and/or foreclosure will occur.

6) Maintenance of case files and other records: for each applicant, AGENCY will maintain case files, including application and documentation of applicant eligibility, property eligibility, the assistance agreement between the homebuyer and COUNTY (along with repayment provisions, documentation of liens and any other forms of security), and any other required documentation. AGENCY will maintain these and other program and financial records in accordance with the general requirements for record keeping specified in Section 5. of this Agreement.

PROJECT SCHEDULE

Unless amended by mutual written agreement by AGENCY and COUNTY, AGENCY will perform the described FTHB program tasks in a timely manner.

EXHIBIT "B" – AGENCY BUDGET

County of Lake Owner Occupied Rehabilitation (OOR) and First Time Homebuyer (FTHB)
Programs (PROGRAMS)

ITEMIZED BUDGET

The following line item budget is the basis for determining the amount of AGENCY costs eligible for reimbursement by COUNTY. (See SCOPE OF WORK for a description of each reimbursable activity.)

Line Items	HOME General Administration	HOME Activity Delivery	Total HOME Budget
Owner Occupied Rehabilitation Program Mgmt. and First Time Homebuyer Program Mgmt.	\$10,000	\$59,901	\$69,901

Budget amounts for Activity Delivery is based on a maximum 22% of the OOR Activity/Loan Budget of \$199,795, and a maximum 7% of the FTHB Activity/Loan Budget of \$227,804, plus general administration costs.

Each invoice submitted to COUNTY by the AGENCY must include the following:

1. Running total of expenditures to date by line item for HOME compensable services.
2. Documentation of services provided or expenditures, including copies of invoices, contracts, receipts, bills, time sheets, or other references documenting the charges billed to the COUNTY or incurred by AGENCY.

BUDGET ADJUSTMENTS

A budget adjustment is defined as a change in value for reimbursable line items without a change in the dollar value for reimbursable services rendered by AGENCY. COUNTY may consider AGENCY budget adjustments after submittal of a formal proposal, including the following documentation:

1. Progress report outlining expenditures, milestones achieved to date and any outstanding balance;
2. Proposed budget outlining projected costs for the entire duration of the contract, highlighting where actual costs are expected to differ from the original budget;
3. Explanations and justifications for changes in each line item; and
4. Plan outlining expected uses of additional funds received.

BUDGET AMENDMENTS

A budget amendment is defined as a change in value for reimbursable line items and a change in the dollar value for reimbursable services rendered by AGENCY. COUNTY may consider AGENCY budget amendments after submittal of a formal proposal, including the same documentation required for a budget adjustment as listed above. COUNTY may also amend the budget to include allocations from future program income.

CHARGE RATE SCHEDULE

AGENCY will request reimbursement for this agreement based on an actual cost for actual work basis. Reasonableness, allowability and allocability of costs not to exceed the budget noted above.

EXHIBIT "C" – COMPLIANCE REQUIREMENTS
ALL CONTRACTS AND SUBCONTRACTS

1. **NONDISCRIMINATION CLAUSE:**

a. During the performance of this Agreement, AGENCY and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. AGENCY and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. AGENCY and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. AGENCY and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

b. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the agreement.

2. **EQUAL OPPORTUNITY:**

a. The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances: During the performance of this Agreement, AGENCY assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any grant activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

b. The Training, Employment and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

i. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u. Section 3 requires that to the greatest extent feasible,

opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project. The order of priority provided by Section 3 is defined in 24 CFR 135.34(a)(2).

ii. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

iii. AGENCY will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

iv. AGENCY will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that AGENCY or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless AGENCY or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

v. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the project, binding upon AGENCY, its successors and assigns. Failure to fulfill these requirements shall subject AGENCY, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

c. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, AGENCY assures COUNTY that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issues pursuant to the ADA.

3. ANTI-LOBBYING CERTIFICATION:

- a. The undersigned certifies, to the best of his or her knowledge or belief, that:
 - i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 - ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- b. AGENCY shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity and that all subrecipients shall certify and disclose accordingly.
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

4. CONFLICT OF INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF AGENCY, MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS: No member, officer, or employee of AGENCY, or its designees or agents, no member of the governing body of the locality in which the programs are situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the programs during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the programs assisted under this Agreement. AGENCY shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

5. CONFLICT OF INTEREST OF CERTAIN FEDERAL OFFICIALS: No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

6. AGENCY AND SUBCONTRACTS:

a. AGENCY shall not enter into any agreement, written or oral, with any contractor without the prior determination by the State of the contractor's eligibility. A contractor or subcontractor is not eligible to receive grant funds if the contractor is not licensed in a good standing in California, or is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

b. This Agreement between COUNTY and AGENCY shall require AGENCY and its subcontractors, if any, to:

i. Comply with the applicable State and Federal requirements described in Attachments A and B of STANDARD AGREEMENT which pertain to, among other things, labor standards, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace.

ii. Maintain at least the minimum State-required Worker's Compensation Insurance for those employees who will perform the grant activity or any part of it.

iii. Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the State which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by AGENCY or any subcontractor in performing the grant activity or any part of it.

iv. Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of five (5) years from the date of termination of this Agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement or the STANDARD AGREEMENT and any amendments, whichever is later.

v. Permit the State, Federal government, the Bureau of State Audits, the Department of Housing and Community Development and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

7. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: Where required, AGENCY shall comply with, and require contractors and subcontractors to comply with, each of the following:

- a. Federal, State and local regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, or any other matters applicable to this Agreement.
 - b. Sections 103 and 107 of the contract Work Hours and Safety Standards Act (40 U.S.C. 327-220) as supplemented by DOL Regulations (29 C.F.R., Part 5);
 - c. Executive Order 11246 and all implementing regulations of the DOL;
 - d. Rehabilitation Act of 1973, (24C.F.R., Part 8);
 - e. Drug-Free Workplace Act of 1990, (Calif. Govt. Code Sec. 8350 et seq.).
 - f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871)
8. UNIFORM ADMINISTRATIVE REQUIREMENTS: AGENCY shall comply with all applicable uniform administrative requirements in accordance with 24 CFR Part 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," as modified by 24 CFR 570.502(a). Agency is also required to adhere to all requirements of OMB Circular A-87, "Cost Principles for State and Local Governments", and OMB Circular A-133, "Audits of State and Local Governments and non-Profit Organizations."
9. PROCUREMENT:
- a. AGENCY shall comply with HOME Program policy concerning the purchase of equipment and shall maintain inventory records of all non-expandable personal property as defined by such policy as may be procured with HOME funds provided herein.
 - b. AGENCY shall procure all materials, property, or services in accordance with the requirements of 24 CFR, Part 85.36, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.
10. REVERSION OF ASSETS: Upon expiration of the STANDARD AGREEMENT, if AGENCY has any HOME funds on hand as well as any accounts receivables attributable to HOME funds, must be transferred to COUNTY. Any real property acquired with HOME funds must be transferred to COUNTY upon expiration of this Agreement.
11. GRANTOR RECOGNITION: AGENCY shall ensure recognition of the role of the State HOME Program in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source. In addition,

AGENCY will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

12. CLIENT DATA: AGENCY shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.

13. DISCLOSURE: AGENCY understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of COUNTY'S or AGENCY'S responsibilities, with respect to services provided under this Agreement is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

EXHIBIT "D" – INSURANCE REQUIREMENTS

County of Lake Owner Occupied Rehabilitation (OOR) and First Time Homebuyer (FTHB) Programs (PROGRAMS)

AGENCY shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the AGENCY, his agents, representatives, or employees. AGENCY shall maintain limits no less than:

- | | |
|---|---|
| 1. Commercial General Liability, Including: | \$2,000,000 per occurrence and |
| Premises and Operations | \$2,000,000 general aggregate |
| Contractual Liability | |
| Personal Injury Liability | |
| Independent Contractors | |
| Bodily Injury, Property Damage | |
| 2. Automobile Liability: | \$1,000,000 per accident for |
| Owned, Non-Owned, | bodily injury and property |
| and Hired Autos | damage |
| 3. Workers' Compensation: | As required by the State of California |
| 4. Employer's Liability: | \$1,000,000 per accident for bodily injury or |
| | disease |
| 5. Professional Liability: | \$1,000,000 per claim and \$2,000,000 |
| | annual aggregate |

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY, either: insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officers, officials, employees and volunteers; or the AGENCY shall provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The COUNTY, its officers, officials, employees and volunteers are to be covered as insured's as respects: liability arising out of work or operations performed by or on behalf of the AGENCY; or automobiles owned, leased, hired or borrowed by the AGENCY.
2. For any claims related to this project, the AGENCY's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees or

volunteers shall be excess of the AGENCY's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) day's prior written notice has been provided to the COUNTY.

If General Liability and Professional Liability coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the AGENCY must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the AGENCY for review.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the COUNTY. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

Verification of Coverage

AGENCY shall furnish the COUNTY with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the COUNTY or on other than the COUNTY's forms provided those endorsements conform to COUNTY requirements. All certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Waiver of Subrogation

AGENCY hereby agrees to waive subrogation which any insurer of consultant may acquire from vendor by virtue of the payment of any loss. AGENCY agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the consultant, its employees, agents and subcontractor.