



**M E M O R A N D U M**  
**COMMUNITY DEVELOPMENT RESOURCE AGENCY**  
**COMMUNITY DEVELOPMENT SERVICES DIVISION**  
 County of Placer

TO: Board of Supervisors DATE: June 8, 2021  
 FROM: Shawna Purvines, Deputy Director  
 BY: Devin McNally, Assistant Planner  
 SUBJECT: Robyn van Ekelenburg Consulting Contract for the Implementation of the County’s First Time Homebuyer Program and the Workforce Housing Preservation Program

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**ACTIONS REQUESTED**

1. Approve the award of a contract to Robyn van Ekelenburg Consulting for the implementation of the County’s First Time Homebuyer Program and Workforce Housing Preservation Program, as well as ongoing administrative support in the amount of \$125,000 in total, for a three-year period.
2. Authorize the Community Development Resource Agency Director or designee to sign all required documents.

**BACKGROUND**

The Community Development Resource Agency (CDRA) currently oversees the County’s First Time Homebuyer Program (FTHB) and is in the process of implementing the approved Workforce Housing Preservation Program (WHPP). As part of this process, staff identified that program implementation would require detailed knowledge of both underwriting loans as well as Federal and State Regulations since the FTHB program uses funds from those sources. These are specialized services that CDRA does not provide within the usual course of business.

Procurement and CDRA collaborated to develop Request for Proposal (RFP) No. 20170 to solicit proposals and identify the most qualified firm to provide these services. The contract will be effective for an initial term of three years, with an option to renew the contract for additional periods at the County’s discretion.

Notices announcing the availability of RFP No. 20170 were distributed via Procurement’s online bid system, Bids&Tenders. A pre-proposal conference was held on March 18, 2021 to allow interested firms to ask questions and gain clarification on the RFP’s requirements. To minimize the risk of COVID exposure of County staff and potential proposers, personal attendance was not permitted. Instead, the event was conducted via Microsoft Teams. This platform allows individuals to attend remotely via their PC, or to call in via phone. Only one person logged in to the event.

One addendum was issued to provide further clarification of the RFP requirements and to add the County’s draft contract for proposers’ consideration.

The RFP closed on April 9, 2021.

Response Summary

Number of Firms or Individuals Notified	70
Number of Firms or Individuals who accessed the RFP	2
Number of Proposals Received:	1

The sole response was submitted by the following firms:

<u>Name of Firm</u>	<u>Location</u>
Robyn van Ekelenburg Consulting	Granite Bay, CA

After an evaluation process, the panel determined that a contract should be negotiated with Robyn van Ekelenburg Consulting.

The selected consultant, Robyn van Ekelenburg, has extensive experience in both underwriting and the administration of Federal and State funding programs. Ms. Ekelenburg has 14 years of project and staff management experience in affordable homeownership. She has developed lending programs and guidelines for private down payment programs and State and Federal funded programs for Neighborhood Housing Services Silicon Valley, Hello Housing, and other organizations across the state.

CDRA has negotiated a contract with Ms. Ekelenburg. The amount of the contract will be up to \$125,000; with payments being made as work is completed. Examples of this work include putting on education seminars for prospective program applications, qualifying applicants, underwriting loans, assisting in compiling reports for state reporting. CDRA has also analyzed the Consultant and confirms that the Consultant meets the independent contractor criteria (Attachment B) required in the Labor Code.

### **FISCAL IMPACT**

Loan processing and activities related to the FTHB program will be funded through grant funds from Federal and State programs, specifically, the County's Home Investment Partnership Program Award with HCD and Revolving Loan Fund, the County's CalHome Reuse Program, and any additional funds the County is awarded through grant applications.

Loan processing and activities related to the WHPP program would be funded through the Housing Trust Fund with a flat 3% loan processing fee (getting paperwork recorded, verifying applicant qualifications) and up to 3% of the total budget of the program (\$15,000) for implementation work (development of processes, marketing, education seminars).

There is no fiscal impact to the County General Fund.

### **ATTACHMENTS**

Attachment A: Contract

Attachment B: Independent Contractor Verification

# ATTACHMENT A

**Administering Agency:** Community Development Resource Agency

**Contract No.** 20170

**Contract Description:** Professional Services Agreement with Robyn Van Ekelenburg

## CONSULTANT SERVICES AGREEMENT

**THIS AGREEMENT** is made at Auburn, California, as of \_\_\_\_\_, 2021 by and between the County of Placer, ("County"), and Robyn van Ekelenburg Consulting, a Sole Proprietor ("Consultant"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services described in Exhibit A. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A. The term of this Agreement shall be from July 1, 2021 through June 30, 2024.
2. **Payment.** County shall pay Consultant for services rendered pursuant to this Agreement. The payment specified herein shall be the only payment made to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all billings for said services to County according to the usual and customary procedures which Consultant uses for billing clients similar to County. **The amount of this Agreement shall not exceed One Hundred and Twenty-Five Thousand Dollars (\$125,000).**
3. **Facilities, Equipment and Other Materials, and Obligations of County.** Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
4. **Exhibits.** All exhibits referred to herein will be attached hereto and by this reference incorporated herein.
5. **Time for Performance.** Time is of the essence. Failure of Consultant to perform any services within the time limits set forth in Exhibit A shall constitute material breach of this contract.
6. **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent Contractor and shall not be an employee of the County. County shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement. County shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.
7. **Licenses, Permits, Etc.** Consultant represents and warrants to County that it has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Consultant to practice its profession. Consultant represents and warrants to County that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.
8. **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Consultant's obligations pursuant to this Agreement. Neither party shall be considered in

default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

9. **Hold Harmless and Indemnification Agreement.** The Consultant hereby agrees to protect, defend, indemnify, and hold Placer County free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by Placer County arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the County) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. Consultant agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Consultant. Consultant also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Consultant or the County or to enlarge in any way the Consultant's liability but is intended solely to provide for indemnification of Placer County from liability for damages or injuries to third persons or property arising from Consultant's performance pursuant to this contract or agreement.

As used above, the term Placer County means Placer County or its officers, agents, employees, and volunteers.

10. **Insurance.** Consultant shall file with County a Certificate of Insurance, with companies acceptable to County, with a Best's Rating of no less than A-:VII showing the following coverage:

**WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Workers' Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to Consultant's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Workers' Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents, or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the Consultant.

Consultant shall require all Sub Consultants to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

Sole Proprietors

If Consultant is a Sole Proprietor and has no employees, they are not required to have Workers Compensation coverage. Consultant shall sign a statement attesting to this condition, and shall agree they have no rights, entitlements or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees.

GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Consultant, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Products and completed operations; and
- (2) Contractual liability insuring the obligations assumed by Consultant in this Agreement; and
- (3) Broad form property damage (including completed operations).

Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limits, where applicable, shall apply separately to Consultant's work under the Contract.

B. One of the following forms is required:

- (1) Comprehensive General Liability; or
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If Consultant carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) for Products Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

Consultant shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) aggregate for Products Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by Consultant shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies, or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The Consultant shall be responsible for all deductibles in all of the Consultant's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

CONTRACTOR's Obligations – Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

Verification of Coverage - Consultant shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

Certificate Holder – Placer County subscribes to a service that monitors insurance certificates for compliance with the above requirements. The Certificate Holder on insurance certificates and related documents should read as follows:

County of Placer  
c/o EXIGIS LLC  
PO Box 4668 ECM #35050  
New York, NY 10168-4668  
Fax: 888-355-3599  
Email: certificates-placer@riskworks.com

Upon initial award of a contract to your firm, you may be instructed to send the actual documents to a County contact person for preliminary compliance review. The County will forward those documents to Exigis LLC.

Certificates which amend or alter the coverage during the term of the contract, including updated certificates due to policy renewal, should be sent directly to Exigis LLC via fax or email as indicated above.

11. **Contractor Not Agent.** Except as County may specify in writing Consultant shall have no authority, express or implied, to act on behalf of County in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied pursuant to this Agreement to Bind County to any obligation whatsoever.
12. **Assignment Prohibited.** Consultant may assign its rights and obligations under this Agreement only upon the prior written approval of County, said approval to be in the sole discretion of County.

13. **Personnel.**

- A. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that County, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Consultant to perform services pursuant to this Agreement, including those members of the Project Team as explained below, Consultant shall remove any such person immediately upon receiving notice from County of the desire of County for removal of such person or persons.
- B. Notwithstanding the foregoing, if specific persons are designated as the "Project Team" in Exhibit A, Consultant agrees to perform the work under this Agreement with those individuals identified. Reassignment or substitution of individuals or sub consultants named in the Project Team by Consultant without the prior written consent of County shall be grounds for cancellation of the Agreement by County, and payment shall be made pursuant to Section 15 (Termination) of this Agreement only for that work performed by Project Team members.

14. **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. All products of whatsoever nature which Consultant delivers to County pursuant to this Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in Consultant's profession.

15. **Termination.**

- A. County shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Consultant. In the event County shall give notice of termination, Consultant shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event County shall terminate this Agreement:
  - 1) Consultant shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostatting, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
  - 2) County shall have full ownership and control of all such writings delivered by Consultant pursuant to this Agreement.
  - 3) County shall pay Consultant the reasonable value of services rendered by Consultant to the date of termination pursuant to this Agreement not to exceed the amount documented by Consultant and approved by County as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the Agreement specified in Exhibit B, and further provided, however, County shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Agreement. In this regard, Consultant shall furnish to County such financial information as in



the judgment of the County is necessary to determine the reasonable value of the services rendered by Consultant. The foregoing is cumulative and does not affect any right or remedy, which County may have in law or equity.

- B. Consultant may terminate its services under this Agreement upon thirty (30) working days' advance written notice to the County.
16. **Non-Discrimination**. Consultant shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.
  17. **Records**. Consultant shall maintain, at all times, complete detailed records with regard to work performed under this Agreement in a form acceptable to County, and County shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until County is satisfied that work of such value has been rendered pursuant to this Agreement. However, County shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.
  18. **Ownership of Information**. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of County, and Consultant agrees to deliver reproducible copies of such documents to County on completion of the services hereunder. The County agrees to indemnify and hold Consultant harmless from any claim arising out of reuse of the information for other than this project.
  19. **Waiver**. One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.
  20. **Conflict of Interest**. Consultant certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this Agreement. In addition, Consultant agrees that no such person will be employed in the performance of this Agreement without immediately notifying the County.
  21. **Entirety of Agreement**. This Agreement contains the entire agreement of County and Consultant with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Agreement, shall be binding or valid.
  22. **Alteration**. No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 15, Termination.
  23. **Governing Law**. This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this Agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California. Each party waives any Federal court removal and/or original jurisdiction rights it may have.

24. **Notification.** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

**COUNTY OF PLACER:**

Placer County Community Development  
Resource Agency  
3091 County Center Drive  
Auburn, CA 95603  
Attn: Housing Specialist  
Phone: 530-745-3170

**CONSULTANT:**

Robyn van Ekelenburg  
9240 Oak Leaf Way  
Granite Bay, CA 95746  
Phone: 408-533-2501

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed. Executed as of the day stated below:

**COUNTY OF PLACER:**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Approved As to Form – County Counsel:

By: \_\_\_\_\_ Date: \_\_\_\_\_

**CONSULTANT:**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

\* Title: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

\* Title: President

***\*If Consultant is a corporation, this agreement must be signed by two corporate officers; one of which must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation (California Corporations Code Sec. 313).***

**Exhibits**

- A. Scope of Services
- B. Payment for Services Rendered
- C. Department of Housing and Community Development Required Contract Language

**EXHIBIT A**  
**SCOPE OF SERVICES**

The Consultant shall implement and general administration services in support of the County of Placer's current and future First Time Homebuyer Program (FTHB) and Workforce Housing Preservation Program (WHPP).

Consultant shall perform and provide the following obligations of this Scope of Work (SOW) with Placer County. Successful performance of this SOW shall be evaluated according to mutually agreed upon criteria. This SOW is for a three-year period from July 1, 2021 through June 30, 2024.

Fulfillment of this Agreement shall include the following tasks:

**Task 1. Program Start Up and Marketing**

- 1) Develop documents and processes for programs that complies with HUD and HCD requirements. These include Qualification Forms and Process Documents.

**Task 2. Program Marketing and Outreach**

- 1) Market the First-Time Homebuyer Assistance Program (FTHB) and Workforce Housing Preservation Program (WHPP) and educate potential applicants on the application process and necessary information needed to successfully qualify. This includes:
  - (a) Holding homebuyer interest seminars for individuals outlining the program(s) offered and providing information and materials on how to qualify.
  - (b) Developing pamphlets and other informational documents to distribute.

**Task 3. Administration and Program Delivery**

- 1) Qualify applicants through a review of submitted documents and other methods such as pulling credit reports.
- 2) Present loans to the Placer County Loan Review Committee for approval or denial. Committee meetings will be as needed and will be roughly one (1) hour per loan (10 – 15 minutes to present, followed by 30 minutes to discuss the application, with 15 minutes of setup/wrap-up).
- 3) Complete required environmental review and inspections (e.g., lead paint inspections and other environmental hazard inspections) along with proper documentation.
- 4) Prepare loan documents for closing. Ensure all loan conditions are satisfied prior to loan closing, security instruments are properly recorded, and loan funds are disbursed in accordance with HUD and HCD requirements.
- 5) Maintain documentation and records for audits and review. This includes application materials, loan documents, and any communication with the buyer.
- 6) Monitor loans for compliance and repayment. This includes annual verification of homeowner's insurance and owner-occupancy requirements.
- 7) Compile documents for review and approval by the State along with required reports for open grants and program income.
- 8) Conduct annual reviews of the WHPP program to be delivered to the Board of Supervisors.

**Task 4. Grant writing and applications**

- 1) Consultant will assist County staff in writing applications in response to notices of funding availability (NOFA's) released for various funding programs (e.g., HOME,

CalHome, Community Development Block Grant (CDBG) and other possible funding sources as they become available. This includes assisting with compiling application materials and reviewing submittals.

## EXHIBIT B

### PAYMENT FOR SERVICES RENDERED

#### Maximum Limit & Fee Schedule

Consultant's compensation shall be paid at the schedule shown below. Reimbursement of travel, lodging and miscellaneous expenses is not authorized. All expenses of Consultant, including any expert or professional assistance retained by Consultant to complete the work performed under this Agreement shall be borne by the Consultant.

The total of all payments made under this Agreement shall not exceed **One hundred twenty-five thousand dollars (\$125,000)**.

#### Invoices

Invoices shall be submitted to County in a form and with sufficient detail as required by County. Work performed by Consultant will be subject to final acceptance by the County project manager(s).

Submit all invoices to:                   Placer County Community Development Resource Agency  
Attn: Housing Specialist  
3091 County Center Drive  
Auburn, CA 95603

#### Payment Schedule

The County will make payment within thirty (30) days after the billing is received and approved by County.

Consultant shall:

- a. Document activities in monthly reports, indicating which program each activity was completed for.

Payment is predicated on the receipt of an invoice for the work completed the previous month. The invoice will itemize work performed during that previous month under each of the items set forth in the Scope of Work (Exhibit A).

The County will make payment within thirty (30) days after the invoice is received and approved by County and as outlined below:

- OED via monthly payments based on an itemized invoice.

Checks are to be made payable to:

Robyn van Ekelenburg  
9240 Oak Leaf Way  
Granite Bay, CA 95746

## EXHIBIT C

### PROFESSIONAL SERVICES AGREEMENT

#### Department of Housing and Community Development Required Contract Language

For this Exhibit, the term "Contractor" is defined as Robyn van Ekelenburg Consulting and the term "Contract" is defined as the "Professional Services Agreement between Placer County and Robyn van Ekelenburg Consulting".

#### **ADDITIONAL PROVISIONS**

##### **FEDERAL TERMS AND CONDITIONS:**

During the performance of the Contract, the Contractor must agree to comply with all applicable Federal laws and regulations including but not limited to the following:

##### **AFFIRMATIVE ACTION:**

The work to be performed under this Contract is on a project assisted under a program providing direct federal financial assistance from the United States Department of Housing and Urban Development (HUD) and subject to 24 CFR 85.36(e). The County hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged, minority and women's business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award. Minority and women-owned and operated businesses encouraged to apply.

##### **SECTION 3:**

The work to be performed under this Contract is on a project assisted under a program providing direct federal financial assistance from the HUD, Community Development Block Grant Program, and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and moderate income persons residing within the project area and that the contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project. Regulations for implementing the Section 3 clause are contained in 24 CFR 135, as amended, and as specified in the project specifications.

##### **NON-DISCRIMINATION CLAUSE:**

During the performance of this Contract Contractor 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, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 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. Contractor 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.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

**EQUAL OPPORTUNITY:**

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).
2. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County Setting forth the provisions of this nondiscrimination clause.
3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as



may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The Contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the Contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
9. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
10. Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided,* That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the Contractor, the Contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.
11. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed Contract shall be in accordance with the purposes and provisions of the order. In the event that the union or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.
12. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**CONFLICT OF INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF CONTRACTORS, MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS:**

Pursuant to 24 CFR 570.611, no member, officer, or employee of the Contractor or its designees or agents, no member of the governing body of the locality in which the program is situated, and

no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted 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 interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter. The Contractor 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.

**DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE FEDERAL REGULATORY REQUIREMENTS UNDER 24 CFR 85.36(e):**

The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

1. Affirmative steps shall include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
  - v. Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

**COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874):**

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

**COMPLIANCE WITH ALL FEDERAL LABOR STANDARD PROVISIONS:**

Contractor shall comply with all provisions contained in the form HUD-4010, Federal Labor Standards Provisions.

**COMPLIANCE WITH SECTIONS 103 AND 107 OF THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-330):**

Contractor will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). Requires the contracting officer to insert the clauses set forth in 29 CFR part 5, Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

**REQUIREMENTS AND REGULATIONS PERTAINING TO DATA AND DESIGN:**

All data and design and engineering work created under this Contract shall be owned by the County and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Agreement shall be the property of the County.

**REQUIREMENTS AND REGULATIONS PERTAINING TO REPORTING:**

The County, State CDBG, HUD and the Comptroller General of the United States or any of their duly authorized representatives shall be granted access to any books, documents, papers, and records of Contractor which are directly pertinent the Contract.

**COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT:**

Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)).

1. Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Air Act (33 U.S.C. 1368).
2. Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15).

**COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT (Pub. L. 94-163, 89 Stat. 871):**

The Contractor shall comply with the 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).

**D/MBE/WBE IMPLEMENTATION GUIDELINES:**

The following information, as applicable, shall be retained by Contractor and produced upon request by General Services if determined by General Services to be necessary to establish the bidder's "good faith efforts" to meet the Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) requirements.

1. The names and dates of advertisement of each newspaper, trade paper, and minority- focus paper in which a request for D/M/WBE participation for this project was placed by the bidder.
2. The names and dates of notices of all certified D/M/WBEs solicited by direct mail for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the D/M/WBEs were interested.
3. The items of work for which the bidder requested subbids or materials to be supplied by D/M/WBEs, the information furnished interested D/M/WBEs in the way of plans, specifications and requirements for the work, and any breakdown of items of work into economically feasible units to facilitate D/M/WBE participation. Where there are D/M/WBEs available for doing portions of the work normally performed by the bidder with his own forces, the bidder will be expected to make portions of such work available for D/M/WBEs to bid on.
4. The names of D/M/WBEs who submitted bids for any of the work indicated in (3) above, which were not accepted, a summary of the bidder's discussions and/or negotiations with them, the name of the subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. If the reason for rejecting the D/M/WBE bid was price, give the price bid by the rejected D/M/WBE and the price bid by the selected subcontractor or supplier.
5. Assistance that the bidder has extended to D/M/WBEs identified in (4) above to remedy the deficiency in their sub-bids.

6. To find a D/M/WBE certified firm, you may call (916) 445-3520, go on-line to: <http://www.dot.ca.gov/hq/bep>, or via mail at: D/M/WBE Listing for County, CalTrans - Publications Distribution Unit, 1900 Royal Oaks, Sacramento, CA 95815-3800.

**AUDIT, RETENTION, AND INSPECTION OF RECORDS:**

The Contractor agrees that the County, the Department of Housing and Community Development, the Federal Department of Housing and Urban Development (HUD), or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Contractor. The Contractor agrees to provide any relevant information requested and shall permit the County, the Department of Housing and Community Development, the Federal Department of Housing and Urban Development (HUD), or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60 et seq.

The Contractor further agrees to maintain such records for a period of five (5) years after final payment under this Contract, and that on or before the end of the five (5) year audit/retention period, the Consultant shall release and deliver to the County all original records and related documentation.

## Independent Contractor Verification

Implementation of the First-Time Homebuyer Program (FTHB) and Workforce Housing Preservation Program (WHPP) requires specialized services such as underwriting, inspections, and compliance with Federal and State regulations. An independent contractor provides specialized expertise and knowledge to successfully implement these programs in compliance with relevant regulations. Furthermore, the sporadic nature of these loans (less than 10 per year) means that the position cannot be supported by permanent staff.

Staff has determined that the independent contractor, Robyn van Ekelenburg (hereafter “Consultant”), performs services outside the County’s usual course of business, and that it also fits within the business-to-business exception for independent contractors (Labor Code, § 2776(a)) as follows:

1. *The business service provider (Consultant) is free from the control and direction of the contracting business entity (County) in connection with the performance of the work, both under the contract for the performance of the work and in fact.*

Community Development Services in no way controls or directs the performance of Consultant. Work is disseminated to Consultant either electronically, or by paper, and returned as a finished product/completed. Consultant can request County assistance in preparing documents, providing information, or performing duties, but is entrusted with the carrying out of the disseminated task.

2. *The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.*

Community Development Services receives applications to the FTHB and WHPP programs and disseminates the applications to the Consultant through SimpliGov, who completes underwriting and due diligence and uploads the applications into the SimpliGov system.

3. *The contract with the business service provider is in writing and specifies the payment amount, including any applicable rate of pay, for services to be performed, as well as the due date of payment for such services.*

Community Development Services has a specific written contract with Consultant outlining payments and rates of pay for services performed, as well as any due dates.

4. *If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.*

Consultant represents that it has the necessary business tax registration and business licenses.

5. *The business service provider maintains a business location, which may include the business service provider’s residence, that is separate from the business or work location of the contracting business.*

Consultant maintains an independent business location separate from any County or Community Development Services Division location.

6. *The business service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed.*

Consultant provides implementation, education, and underwriting services to other organizations in the state.

7. *The business service provider can, and does, contract with other businesses to provide the same or similar services and maintain a clientele without restrictions from the hiring entity.*

Consultant conducts business of the same nature with other clients throughout the state and provided documentation of current clientele (Burbank Housing Development Corporation and Cabrillo Economic Development Corporation).

8. *The business service provider advertises and holds itself out to the public as available to provide the same or similar services.*

Consultant works through word of mouth and through references from other organizations.

9. *Consistent with the nature of the work, the business service provider provides its own tools, vehicles, and equipment to perform the services, not including any proprietary materials that may be necessary to perform the services under the contract.*

Consultant provides their own method, machinery, materials, and manpower to complete the requested services.

10. *The business service provider can negotiate its own rates.*

Consultant provided their own rates during a “request for proposals” County process.

11. *Consistent with the nature of the work, the business service provider can set its own hours and location of work.*

Consultant sets the hours, days, and location of the work to be performed.

12. *The business service provider is not performing the type of work for which a license from the Contractors’ State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.*

Underwriting and other consultant services do not require a license from the Contractor’s State License Board.