

RESOLUTION NO. 2018-065
Authorizing Agreement No. 780

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL SERVICES AGREEMENT FOR HOUSING SERVICES FROM THE HOUSING AUTHORITY OF THE CITY OF NAPA

WHEREAS, the City Council has placed great emphasis on the need to support and enhance efforts and services to increase and protect affordable housing opportunities for the residents of Calistoga; and

WHEREAS, the City Council recognizes the need to continually monitor the occupancy of the affordable housing created within the City to insure compliance with affordability terms and restrictions and to prepare and submit monitoring and compliance reports regarding such occupancy to state and federal agencies on a regular basis; and

WHEREAS, the City Council recognizes the critical need of preserving the city's housing stock and providing assistance to low-income households in order to do so; and

WHEREAS, the Housing Authority of the City of Napa has provided valuable professional services regarding housing matters to the City in the past, including the recent successful implementation of the housing rehabilitation program; and

WHEREAS, the City's budget for Fiscal Year 2018-2019 (Account No. 01-4107-4442) reflects a \$30,560 allocation for housing services and it is anticipated that sufficient funding will be available for allocation in Fiscal Year 2019-2020, based on anticipated monitoring fees, loan repayments and reimbursed administrative fees.

NOW, THEREFORE BE IT RESOLVED, the City Council hereby authorizes the City Manager to execute a two-year intergovernmental services agreement with the Housing Authority of the City of Napa to provide the services identified in the agreement attached hereto in an amount not to exceed \$62,037.

PASSED AND APPROVED by the City Council of the City of Calistoga at a regular meeting held this **19th day of June, 2018** by the following vote:

- AYES:** Vice Mayor Dunsford, Councilmembers Barnes, Lopez-Ortega and Kraus and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: None



Chris Canning, Mayor

ATTEST:



Kathy Flanson, City Clerk

INTERGOVERNMENTAL AGREEMENT FOR SERVICES BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF NAPA AND THE CITY OF CALISTOGA

**HOUSING AUTHORITY OF THE CITY OF NAPA AGREEMENT NO. _____
CITY OF CALISTOGA AGREEMENT NO. 780**

THIS AGREEMENT FOR SERVICES (this "Agreement") is made and entered into as of July 1, 2018 ("Effective Date"), by and between the HOUSING AUTHORITY OF THE CITY OF NAPA, a public body, corporate and politic (the "Authority"), and the CITY OF CALISTOGA, a municipal corporation (the "CITY") under the joint exercise of powers provisions of the Government Code of the State of California, California Government Code Section 6500-6536. CITY and Authority are public entities organized and operating under the laws of the State of California and each is a public entity as defined in California Government Code Section 6500. The Authority and CITY are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the CITY desires to obtain housing services from the Authority during the Fiscal Year 2018 – 2019 and Fiscal Year 2019 – 2020, and the Authority is willing to provide such services to the CITY subject to the terms and conditions set forth herein.

TERMS

NOW, THEREFORE, CITY and Authority agree as follows:

1. **Term of the Agreement.** The term of this Agreement shall commence on the Effective Date and shall expire on June 30, 2020 (the "Term") unless earlier terminated in accordance with Paragraphs 7 or 8 of this Agreement.
2. **Scope of Services.** Authority shall provide the CITY those services set forth in Exhibit "A", attached hereto and incorporated by reference herein (the "Services").
3. **Compensation.**
 - (a) **Baseline Rates.** In consideration of Authority's performance of the Services, the CITY shall pay to Authority the baseline rate ("Baseline Rate") of Thirty Thousand Five Hundred Sixty Dollars (\$30,560.00) for fiscal year 2018–2019 and Thirty One Thousand Four Hundred Seventy Seven Dollars (\$31,477.00) for fiscal year 2019–2020.
 - (b) **Maximum Annual Compensation.** Compensation for the Services provided by Authority to the CITY under this Agreement shall not exceed \$30,560.00 for fiscal year 2018-2019 or \$31,477.00 for fiscal year 2019-2020 as detailed in the following table:

COMPENSATION BREAKDOWN			
Service Provided	FY2018-19 Cost	FY2019-20 Cost	Total Cost
HACN Baseline Housing Services	\$ 30,560	\$ 31,477	\$ 62,037

(c) **Rate for Additional Services.** If the CITY authorizes Authority to perform services that are not included in the Scope of Services set forth in Exhibit "A," Authority will be compensated for such services on a time and materials basis. The rate for Authority's time shall be the then-current fully burdened overhead rate (the "Fully Burdened Overhead Rate") for the employee performing the services. The Fully Burdened Overhead Rate is an hourly billable rate that captures all Authority costs (direct and indirect) associated with an employee, over and above gross compensation or payroll costs. Typical costs associated with the Fully Burdened Overhead Rate include payroll taxes, worker's compensation, health insurance, paid time off, pension contributions, other benefits, and indirect costs including departmental and CITY wide administrative overhead allocations. The applicable Fully Burdened Overhead Rate will depend on the Authority employee performing the services as each employee has a different Fully Burdened Overhead Rate that is calculated based on that particular employee's salary and benefits.

Any grant program administration or activity delivery services provided by Authority to CITY for HOME and CDBG loans after the expiration or termination of the Services Agreement between Authority and CITY dated October 21, 2014 and March 30, 2017 shall be considered additional services subject to the Fully Burdened Overhead Rate; provided however, the Fully Burdened Overhead Rate for such services shall exclude any indirect Authority costs, such as overhead allocations.

4. Method of Payment. The Authority shall provide to CITY an invoice for payment for the Services on the following dates and in the following amounts:

- (a) On July 1, 2018, an invoice equal to 50% of the Baseline Rate for fiscal year 2018-2019 in the amount of \$15,280.00; and
- (b) On January 1, 2019, a second invoice for the remaining 50% of the Baseline Rate for fiscal year 2018-2019 in the amount of \$15,280.00.
- (c) On July 1, 2019, a third invoice for 50% of the Baseline Rate for fiscal year 2019-2020 in the amount of \$15,738.50; and
- (d) On January 1, 2020, a fourth invoice for the remaining 50% of the Baseline Rate for fiscal year 2019-2020 in the amount of \$15,738.50.

CITY shall pay the Authority within thirty (30) days following receipt of an invoice.

5. Independent Contractor. The Authority shall perform the Services under this Agreement as an independent contractor. The Authority and the officers, agents and

employees of Authority are not, and shall not be deemed, CITY employees for any purpose, including workers' compensation. The Authority shall determine the method and manner by which the Services shall be performed. The Authority and its officers, employees and agents shall not be entitled to any of the benefits accorded to a CITY employee. CITY shall not deduct or withhold any amounts whatsoever from the compensation paid to the Authority, including, but not limited to amounts required to be withheld for state and federal taxes. The Authority shall be solely responsible for all such payments.

6. **Indemnification.** To the fullest extent permitted by law, CITY shall defend, indemnify and hold harmless the Authority and its elected and appointed officials, officers, agents and employees from any claim, loss or liability including without limitation, those for personal injury (including death) or damage to property, arising out of or connected with CITY's acts or omissions under this Agreement.

To the fullest extent permitted by law, Authority shall defend, indemnify and hold harmless CITY and its elected and appointed officials, officers, agents and employees from any claim, loss or liability including without limitation, those for personal injury (including death) or damage to property, arising out of or connected with Authority's acts or omissions under this Agreement.

7. **Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving fifteen (15) days written notice to the defaulting party in the manner set forth in Paragraph 11 (Notices).

8. **Termination for the Convenience of a Party.** This Agreement may be terminated by either party for any reason and at any time by giving no less than thirty (30) days prior written notice of such termination to the other party and specifying the effective date thereof.

9. **Payment for Work upon Expiration or Termination.** In the event of termination for cause under Paragraph 7 or termination for the convenience of a party under Paragraph 8, Authority shall be entitled to receive compensation for any satisfactory Services provided by the Authority prior to the effective date of the notice subject to the maximum amount set forth in Paragraph 3(b). In the event the termination results in the Authority receiving payment in an amount that exceeds the amount due to Authority for the Services provided under this Agreement, CITY shall be entitled to receive reimbursement for any overpayment from Authority.

10. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

11. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by first class mail, postage prepaid. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

AUTHORITY

Lark Ferrell, Housing Manager
Housing Authority of the City of Napa
P.O. Box 660
Napa, CA 94559

CITY OF CALISTOGA

Dylan Feik, City Manager
City of Calistoga
1232 Washington Street
Calistoga, CA 94515

12. **Confidentiality.** Confidential information is defined as all information disclosed to the Authority which relates to CITY past, present, and future activities, as well as activities under this Agreement. Except as otherwise provided in Paragraph 15, as directed by the CITY Manager or designee thereof, or when required by the California Public Records Act, a subpoena or by court order, the Authority shall hold all such information as the Authority may receive, if any, in trust and confidence.

13. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in a writing signed by the Parties.

14. **Compliance with Laws.** In the performance of this Agreement, the Authority shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes.

15. **Access to Records/Retention.** CITY shall have access to any books, documents, papers and records of the Authority prepared or obtained by the Authority when providing the Services under this Agreement. Upon expiration or termination of this Agreement the Authority shall return all such records to CITY unless otherwise directed by CITY to retain or dispose of such records, except that with the written permission of CITY, the Authority may keep a copy of such records as long as such copy is maintained in confidence and is returned to CITY or its successor agency to be destroyed upon notification to Authority that CITY has authorized destruction of the original records.

16. **Attorney's Fees.** In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

17. **Interpretation.** The headings used herein are for reference. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California.

18. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

19. **Entirety of Contract.** This Agreement, together with "Exhibits A and B" attached hereto and incorporated herein, constitutes the entire agreement between the Parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the Parties with respect to the subject matter hereof.

20. **Counterparts.** This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

21. **Privileges and Immunities.** In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the Parties when performing their functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

This Agreement continues on the following page.

IN WITNESS WHEREOF, this Agreement was executed by the Parties as of the date first above written.

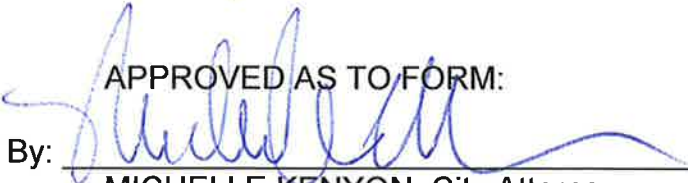
CITY OF CALISTOGA

By: 
_____ **DYLAN FEIK, City Manager**

ATTEST:

By: 
_____ **KATHY FLAMSON, City Clerk**

APPROVED AS TO FORM:

By: 
_____ **MICHELLE KENYON, City Attorney**

HOUSING AUTHORITY OF THE CITY OF NAPA, a public body, corporate and politic

By: _____ **RICK TOOKER, Deputy Director**

ATTEST:

By: _____ **DOROTHY ROBERTS, Deputy Authority Secretary**

COUNTERSIGNED:

By: _____ **DESIREE BRUN, City Auditor**

APPROVED AS TO FORM:

By: _____ **MICHAEL BARRETT, Authority General Counsel**

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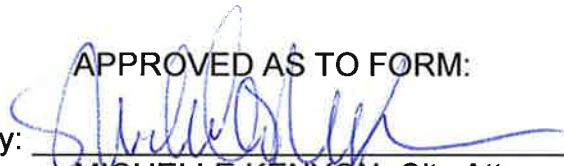
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EXHIBIT "A"

Scope of Work

WORK PROGRAM	DESCRIPTION
A. COUNTYWIDE ACTIVITIES	
1. Section 8 Housing Services	HUD-funded very low income rental housing assistance program administered countywide - 88% City of Napa & 12% countywide
2. Continuum of Care	Participate in Countywide Continuum of Care for delivery of homeless services & projects
B. STANDARD HOUSING SERVICES	
1. Regulatory Agreement Monitoring	Provide required annual monitoring of regulatory agreement units summarized in Exhibit B
2. Review development projects	Technical assistance reviewing proposed housing developments to maximize affordable housing units
3. Loan Servicing	Provide loan servicing and owner occupancy monitoring for HOME & CDBG rehab loans
4. Affordable Housing Regulatory Agreements	Review affordable housing agreements & make recommendations
5. Annual Meeting with Staff and Council	Report on year's activities
C. ADDITIONAL HOUSING SERVICES	
1. Additional housing services as mutually agreed to	TBD: The Authority shall be compensated for such additional services in accordance with Section 3(d).

EXHIBIT "B"

MONITORING DETAIL

Project	Type	Affordable Units	Task	Description
Palisades	SFSH	17	Annually	Mail out owner occupancy certification, verify insurance & taxes paid. Follow-up when necessary. Update owner database
Emerald Oaks	SFSH	1	Annually	Mail out owner occupancy certification, verify insurance & taxes paid. Follow-up when necessary. Up-date owner database
Silverado Place	SFSH	1	Annually	Mail out owner occupancy certification, verify insurance & taxes paid. Follow-up when necessary. Update owner database
Saratoga Manor II	SFSH	17	Annually	Mail out owner occupancy certification, verify insurance & taxes paid. Follow-up when necessary. Update owner database
Lakewood I 1809 Lake St.	Rental	8	Annually	Review Calistoga Affordable Housing, Inc. annual report & tenant certification forms for compliance with Affordable Housing Agreement #0210 & Loan Agreement #0210
Palisades Apts 40 & 42 Brannan St.	Rental	24	Annually	Review Burbank Housing annual report & tenant certification forms for compliance with Affordable Housing Agreement #0248 & HOME Standard Agreement #07-HOME-3063. Submit Annual Long Term Monitoring Report to HCD. Collect annual monitoring fee.
Paladini Apts	Rental	4	Annually	Review property owner's annual report and tenant certification forms for compliance with Affordable Housing Agreement. Collect annual monitoring fee.
Luxe Calistoga - Garnett Creek Inn 1139 Calistoga St.	Rental	4	Annually	Review property owner's annual report and tenant certification forms for compliance with Affordable Housing Agreement. Collect annual monitoring fee.
HOME Loans	Rehab	20	Annually	Loan servicing & owner occupancy certification, verify insurance and taxes or HCD registration paid. Follow-up when necessary. Update Rehab database.
Calistoga Senior Apts 611 Washington Street	Rental	29	Annually	Lease up certification. Review annual reports & tenant certification forms for compliance with the Affordable Housing Agreement.