

**AMENDMENT TO AGREEMENT
BETWEEN
THE COUNTY OF SAN MATEO
AND
PROJECT WEHOPE**

THIS AMENDMENT TO THE AGREEMENT, entered into this ____ day of _____, 20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and PROJECT WEHOPE, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement for shelter services on June 3, 2011; and

WHEREAS, the parties wish to amend the Agreement to provide Community Services Block Grant (CDBG) services and funding.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 3 of the agreement is amended to read as follows:

Payments In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and any Exhibit(s) or attachment(s) attached hereto, County shall make payment to Contractor in the manner specified herein and in Exhibit "A". In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination. The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall total payment for services under this Agreement exceed **One Hundred Nineteen Thousand Ninety Two Dollars (\$119,092)**.

2. The Following Exhibits are added to the agreement
Exhibit A1 – Program/Project Description - See Attachment
Exhibit B – Disbursement and Rate - See Attachment
Exhibit C – Additional Program Requirements – See Attachment

3. All other terms and conditions of the agreement dated June 3, 2011, between the County and Contractor shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

PROJECT WEHOPE

Contractor's Signature

Date: _____

Exhibit A1
Program/Project Description and Specific Requirements
Project We HOPE
CDBG FY 12-13

Description of Program Services to be Performed by the Contractor

In consideration of the funding assistance payments set forth in Exhibit B, Contractor shall provide the following services: furnish a warming shelter to an estimated 400 individuals, as part of a collaborative effort to address the needs of the homeless population in East Palo Alto, focusing on basic housing needs of clients providing a safe, secure and caring environment during inclement weather (November – April). The shelter is open seven days per week from 8pm to 8:30am.

County Requirements

1. **County Reimbursement Payment Overview:** CDBG funds may not be used as advances to Contractor, only for reimbursement for services rendered. CDBG funds may be used to reimburse for costs incurred for the following: the cost of labor, supplies, and materials to deliver the above-referenced service(s), and a share of costs incurred in the operation and maintenance of a portion of the facility in which the service(s) is/are delivered and/or provided (“Reimbursable Expenses”). Reimbursable Expenses include the lease of a facility, equipment, and other property needed to provide the public service. Reimbursement of Contractor may be made based on a unit cost of service delivery (prorated CDBG cost of providing service per client) provided Contractor can provide supporting documentation described in Exhibit B.

Income payments. CDBG funds may not be used to make income payments directly to individuals for any purpose, including for such items as food, clothing, rent, and utilities (“Essential Household Expenses”). County shall not reimburse Contractor under this Agreement for any such income payments, including but not limited to **Contractor’s purchase of gift cards provided to individuals**. However, income payments made by Contractor directly to providers of Essential Household Expenses on behalf of an individual for a time period not to exceed three consecutive months are eligible for reimbursement using CDBG funds, provided all other requirements are met. CDBG funds may not be used to fund or reimburse Contractor for administrative expenses or other costs not associated with the CDBG-funded service delivery. Costs must be allowable, reasonable, and allocable, subject to OMB Circular A-122, “Cost Principles for Non-Profit Organizations,” or OMB Circular No. A-87, “Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments.”

Unless otherwise noted, payment to Contractor shall be made quarterly in accordance with the cost allocation budget below, which an estimated reimbursement schedule of amounts for County funding under this Agreement. All invoices must be supported by adequate documentation acceptable to DOH. (See Exhibit B for more information.) Both County and Contractor understand that the cost allocation portion for County reimbursement is an estimate, and may deviate from what has been stated below. Any line item request for reimbursement that varies more than 10% from the original estimated CDBG-budgeted line item must be approved in writing by DOH Director as a condition of reimbursement.

Cost Allocation Budget

(Note – Explanations/rationale for each allocated amount are noted in the space below table.)

A	B	C	D	E	F	G
Budget Activity Description	Agency Total (\$)	Percent of Total for Prog. (%)	Program (\$)	Percent of Program funded by CDBG (%)	CDBG-Funded (\$)*	Estimated number of (choose one) Persons or Families or Households Benefited**
Labor (list name/title of staff):	\$139,881		\$116,952		\$50,000***	400**
Supplies:	\$30,850		\$20,850			
Materials:						
Operations/Maintenance:	\$178,352		\$83,978			
Rent						
Utilities/Maint.						
Insurance						
Miscellaneous						
TOTAL (\$)	\$349,083		\$221,780		\$50,000	
COST PER SERVICE UNIT (Divide total CDBG Grant by # of persons or Families or HHs benefited.)						\$125.00

* Any line item request for reimbursement that is greater than 10% of the original estimated CDBG-budgeted line item must be approved in writing by DOH Director.

** Duplicated

*** Original request for \$50,000. Actual amount is \$45,592 for FY 2012-2013.

<p>Explanations/rationale for allocations in table above: Miscellaneous - website maintenance</p>

maintenance

Unless agreed to otherwise by the parties to this Agreement and set forth herein, one hundred percent (100%) of clients served with funding under this agreement must be low income as defined by U.S. Department of Housing & Urban Development for San Mateo County. The current low income standards for San Mateo County can be found at www.smchousing.org. Family income will be documented by a statement of income signed by the client or verified by pay stubs, income tax returns, report of benefits, pensions or other suitable verification of income.

2. NEPA Exemption: CDBG funding for the program activity funded in this Agreement is exempt from environmental review (ER) in accordance with the National Environmental Protection Act under 24 CFR Part 58 sec.58.34 (4). Should DOH determine that the activity is not exempt under the aforementioned regulation, DOH will notify Contractor that an ER will be prepared and that any non-staff costs to prepare the ER will be deducted from the proceeds of the funding provided in this Agreement. In no case will funds be disbursed to Contractor until an ER determination has been made and/or an ER completed to the satisfaction of the DOH, as the case may be.
3. Required Quarterly Reporting: Contractor shall submit to DOH a Quarterly Performance Report as soon as practicable after the end of each quarter but no later than 30 days after the quarter's end. As DOH has moved to a web-based on-line system (City Data Services/CDS) for reporting and billing, Contractor should enter necessary data into the on-line system. But Contractor should be aware that since this is the transition year for transferring to the on-line data entry system, Contractor may be asked to provide hard copies of reports. If that is the case, these report forms may be accessed from the DOH website at www.smchousing.org. Required quarterly reporting will consist of two parts:
 - a) Performance Summary, to be submitted on a form provided by DOH, which will summarize the number of clients served by their ethnicity and income. Data will be entered for both households and individuals. Data on domicile (city) of clients must also be provided.
 - b) Narrative Report, which provides a narrative of highlights/details of both the funded activity and of the Contractor's organization. A recommended format will be provided by DOH. *The narrative is required even if no activity has taken place within the quarter.*
4. Required Year-End Reporting. An additional reports is required at fiscal year-end:

Funding Sources Final Report, that shows the total of all funds expended for the program. This form may be found at www.smchousing.org.
5. Monitoring: In accordance with Paragraph 13 herein, *Retention of Records, Right to Monitor and Audit*, DOH may undertake monitoring of Contractor's records and

premises for program compliance. Contractor shall be given adequate notice of any monitoring. Monitoring objectives will be to determine if Contractor is: (a) carrying out community development objectives consistent with the CDBG Program; (b) carrying out the program in a timely manner; (c) charging costs to the CDBG-funded activity that are eligible under applicable laws and CDBG regulations, and which costs should be reasonable in light of the services delivered; (d) conducting its activities with adequate control over program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse; and (e) operating on a level that indicates it possesses a continuing capacity to carry out the CDBG-funded activity.

6. Contract Number: All correspondence, invoices, payments, and reports must include the County contract number.

Exhibit B
Disbursements and Rates
Project We HOPE
CDBG - FY 12-13

Amount and Method of Payment

In consideration of the services provided by Contractor in Exhibit "A", County will disburse funding assistance to Contractor based on the following terms:

Public Services

As mentioned in Exhibit A (Item 3- Required Quarterly Reporting), DOH is using an on-line web-based billing and reporting system (CDS), and Contractor should enter billing data into the web-based system. Upon receipt, review and approval of invoice, following the end of any calendar quarter, County will reimburse Contractor for actual costs incurred for services rendered during the term of the contract through the end of the quarter just completed, provided Contractor provides DOH with documentation that is appropriate to the request for reimbursement and consistent with the cost allocation budget described in Exhibit A. (For example, if reimbursement is for staffing costs, then appropriate documentation would be time sheets indicating hours incurred for CDBG-supported service delivery in appropriate time periods, documentation that the staff costs are reimbursable from funds provided in this agreement, and that staff costs were a line item in the budget submitted.)

All back-up invoice documentation should be uploaded into the on-line system. But if DOH requests hard copies of invoice documentation and should DOH determine that the invoice documentation is too voluminous, DOH will notify Contractor that a summary of documentation plus scanned/mailed support materials may suffice for County review and approval. In all cases, Contractor should make documentation records available for DOH review upon request.

In no event will County reimburse Contractor for any payments exceeding the total amount of \$45,592 for the FY 12-13 Agreement.

All hard-copy requests for reimbursement must be signed by an authorized representative of Contractor. Contractor shall certify in writing that the specific services for which reimbursement or payment is being requested have been satisfactorily completed, that the payments are proper and that all funds to be expended are on behalf of and exclusively for the activity or services described in Exhibit A. The County reserves the right to verify such completion prior to payment to Contractor.

In the event of a questionable payment request, the County will state in writing the specific nature of its objections to Contractor's work. The County will also specify what actions or changes are necessary to make the work acceptable. Contractor shall respond to County within 15 days of receipt of such objections. The parties to this Agreement shall meet to discuss such objections at the request of either party. The County will not be obligated to make a payment of any billing until any and all objections to the adequacy of the services rendered or the amount of the billing have been resolved.

Exhibit C
Additional Program Requirements

1. BREACH OF AGREEMENT

This Agreement is governed by applicable federal statutes and regulations, as referred to elsewhere herein. Any material deviation by Contractor for any reason from the requirements thereof, or from any other provision of this Agreement, shall constitute a breach of this Agreement and may be cause for termination of the Agreement at the election of County or upon the direction of HUD.

2. AGREEMENT TERMINATION

In the event Contractor is unable to fulfill its responsibilities under this Agreement for any reason whatsoever, including circumstances beyond its control, County may terminate this Agreement in whole or in part in the same manner as for breach hereof.

3. CONFLICT OF INTEREST

No members, officers, or employees or agents of County, no member of the County's Board of Supervisors, and no other public official who exercises any function or responsibility with respect to the program that is the subject of this Agreement ("Program") during his/her tenure, or for one year thereafter, shall have any financial interest, direct or indirect, in this Agreement or a related subcontract, or the proceeds thereof.

During his/her tenure, and for one year thereafter, no member, officer, board member or employee or agent of Contractor who exercises any function or responsibility with respect to Contractor's performance hereunder, shall have any personal financial interest, direct or indirect, in any real property or improvements receiving a direct benefit from the Program. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

Contractor shall not contract with any third party or subcontractor that will cause a violation of the preceding paragraph. Contractor shall incorporate the above provision into all contracts awarded in connection with this Agreement.

4. LOBBYING PROHIBITED

Federal funds will not be used by Contractor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government. Federal funds will not be used by Contractor to lobby or 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 award of any Federal contract.

5. INFLUENCING PROHIBITED

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor to any person for influencing or attempting to influence 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 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;

B. 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, Contractor will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions; and

C. The language of paragraphs 5A and 5B will be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

6. COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

Contractor, to the extent applicable to this Agreement, shall comply with the following Federal laws and regulations as set forth in 24 CFR §§570.600-612:

A. Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, including community development funds, on the grounds of race, color, or national origin.

B. Public Law 90-284, Fair Housing Act (42 U.S.C. §§3601- 20), which provides that it is the policy of the United States to provide, within constitutional limitations, fair housing throughout the United States and prohibits any person from discriminating in the sale, rental, or financing of housing on the basis of race, color, religion, sex, national origin handicap or familial status. The Fair Housing Act, as amended in 1988, also establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities. Multifamily dwelling units in buildings containing 4 or more units served by one or more elevators, or ground floor dwellings units with 4 or more units, constructed for first occupancy after March 13, 1991, must be designed and constructed in a manner that the public and common use portions of such dwellings are readily accessible to and usable by disabled persons. All premises within such dwellings must incorporate features of adaptive design regarding accessibility routes into and through the dwelling and design features within the units. (Regarding accessibility design issues, State accessibility requirements will prevail if they are stricter than federal requirements.)

C. Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services, programs or benefits supported by Federal funds.

D. Rehabilitation Act of 1973, Section 504, which prohibits discrimination against otherwise qualified handicapped persons in the provision of programs, facilities and employment supported by Federal funds.

In the case of multifamily rental housing, projects of five or more units must be designed and constructed to be readily accessible to and usable by persons with disabilities. For new construction involving five or more units, and substantial rehabilitation projects of 15 or more units (with substantial rehabilitation defined as rehabilitation costs representing 75 percent or more of the replacement costs of the completed facility), the following requirements must be followed - a minimum of 5 percent of the dwelling units must be accessible to individuals with mobility impairments and an additional 2 percent accessible to individuals with sensory impairments. At the minimum, one unit will be made accessible to mobility-impaired individuals and one unit accessible to sensory impaired individuals. When less than substantial rehabilitation is undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of 5 percent of the dwelling units (but not less than one unit) are accessible to persons with mobility impairments; for this category of less than substantial rehabilitation, the additional 2 percent of the units for persons with sensory impairments does not apply. Also for this category of rehabilitation, if undertaking accessibility alterations imposes undue financial and administrative burdens on the operation of the multifamily housing project, the alterations are not required.

In the case of non-housing facilities involving new construction, the facilities will be designed and constructed to be readily accessible to and usable by persons with disabilities. For facilities involving alterations, to the extent possible, the alterations should ensure that such facilities are readily accessible to and usable by individuals with disabilities. An element of an existing non-housing facility need not be made accessible, if doing so, would impose undue financial and administrative burdens on the operation of the recipient program or activity. (However, State law will prevail if State accessibility requirements are stricter than federal 504 requirements.) Recipients are still required to take other actions that would ensure that persons with disabilities receive the benefits and services of the program.

E. Davis-Bacon Act, which requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with Federal funds will be paid prevailing wages of the locality as determined by the Secretary of Labor.

F. Section 3, Housing & Urban Development Act of 1968. For all programs receiving \$100,000 or more, or construction projects receiving \$200,000 or more, of HUD financial assistance, to the greatest extent feasible, economic opportunities will be given to Section 3 residents and businesses in the area. Section 3 Residents are defined as: 1) residents of public housing; or 2) low and very-low income persons living in the area. Section 3 Businesses are defined as businesses: 1) that are at least 51% owned by Section 3 Residents; 2) whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or 3) that provide evidence of a commitment to subcontract in excess of 25 % of the dollar award of all subcontract to be awarded to a Section 3

business concern. Contractors must maintain appropriate documentation of their efforts to comply with Section 3 requirements.

G. Flood Disaster Protection Act of 1973, which provides that no federal financial assistance for acquisition or construction purposes may be approved for an area having special flood hazards unless the community in which the area is located is participating in the National Flood Insurance Program.

H. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which provides for relocation assistance for any family, individual, business, non-profit organization or farm displaced as a result of acquisition of property with federal funds.

I. Executive Order 11246, as amended by Executive Order 12086, Equal Employment and Contracting Opportunities, which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federally assisted construction contracts.

J. Housing and Urban Development Act of 1968, Section 3, which requires that, in the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible, opportunities for training and employment be given to low- and moderate-income persons residing within the unit of local government in which the project is located, and that 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 same unit of local government as the project.

K. Lead-Based Paint Poisoning Act, which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance.

L. Housing & Community Developments Act of 1974, 24 CFR Part 5, which provides that assistance will not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any Contractor or sub recipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR part 24. This provision covers all Contractors and subrecipients, as well as subcontractors of Contractor or subrecipient, whose names are included in the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs." Inclusion in the aforementioned List during the term of this agreement would constitute grounds for contract termination as described in Sections 1 and 2 herein this Exhibit. The aforementioned List can be found on the Web at <http://epls.arnet.gov>.

7. UNIFORM ADMINISTRATIVE REQUIREMENTS

A. Contractor, if a governmental entity or public agency, will comply with the requirements and standards of OMB Circular No. A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments", OMB Circular A-133, "Audits of State, Local Governments and Non-Profit Organizations", and applicable sections of 24 CFR §85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", as set forth in 24 CFR §570.502(a).

B. Contractor, if a non-profit organization, shall comply with the requirements and standards of OMB Circular No. A- 122, "Cost Principles for Non-Profit Organizations", OMB Circular A-133 Audits of State, Local Governments and Non-Profit Organizations", and applicable Attachments to OMB Circular No. A-110, as set forth in 24 CFR §570.502(b).

8. RETENTION OF RECORDS

Notwithstanding Section 13 A of the Agreement, the Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years after completion of all services rendered under this Agreement.

9. CDBG PROGRAM INCOME

If specifically authorized in this aAgreement, Contractor may keep CDBG program income. In all cases, CDBG program income must be used for CDBG-eligible activities. Program income is defined at 24 CFR 570.500 as gross income that is directly generated from the use of CDBG funds. Program income includes, but is not limited to: proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds; proceeds from the disposition of equipment purchased with CDBG funds; gross income from the use or rental of real or personal property acquired with CDBG funds, less costs incidental to generation of the income; and gross income from the use or rental of real property that was constructed or improved with CDBG funds, less costs incidental to generation of income. For activities funded with CDBG funds, Contractor shall comply with CDBG program income requirements at 24 CFR 570.503 and 504. Unless specifically designated otherwise by the County herein, any program income on hand when the agreement expires, or received after the agreement's expiration, will be transferred to the County.

10. REVERSION OF ASSETS, INCLUDING REAL PROPERTY

Upon expiration or completion of the performance period in agreements providing CDBG funds for real property, any real property under Contractor's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to Contractor in the form of a loan) must either be: used to meet one of the national objectives in Section 570.208 until five (5) years after expiration of the agreement, or for such longer period as the County may determine to be appropriate; or not used to meet one of the national objectives, in which event the Contractor shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvements to, the property. The payment is program income to the County. After lapse of the aforementioned specified time, disposition of the CDBG-assisted asset is specifically designated in this Agreement through reconveyance of the deed of trust, as the case may be, and/or some other mutually agreed-upon asset disposition plan between County and Contractor.

11. The applicable CFDA # for the federal entitlement programs funding provided in this agreement includes one or more of the following:

- 1) Community Development Block Grant (CDBG): **14.218**
- 2) Emergency Shelter Grant (ESG): **14.231**
- 3) HOME Investment Partnership (HOME): **14.239**
- 4) Community Development Block Grant-Recovery (CDBG-R): **14.253**
- 5) Homeless Prevention and Rapid Re-housing Program (HPRP): **14.257**