

EXHIBIT A  
SCOPE OF SERVICES TO  
PROFESSIONAL SERVICE AGREEMENT  
BETWEEN THE  
COUNTY OF MONTEREY AND  
CALIFORNIA COASTAL RURAL DEVELOPMENT CORPORATION

**WHEREAS**, the County of Monterey (hereinafter the “COUNTY”) has received grant funds from the U.S. Department of Commerce Economic Development Administration (“EDA”), the California Department of Trade and Commerce, and various local sources (the “Original Funding Entities”) specifically for the purpose of establishing a Small Business Revolving Loan Fund (the “SBRLF”);

**WHEREAS**, the COUNTY issued Request for Proposals #10598 (“Attachment 1”) to competitively select a Program Administrator for the SBRLF;

**WHEREAS**, no proposals were received in response to RFP #10598;

**WHEREAS**, the California Rural Development Corporation (“CALCOASTAL”) is an established business lending organization that has managed the SBRLF for the COUNTY since 2000;

**WHEREAS**, the COUNTY and CALCOASTAL wish to enter into an agreement for CALCOASTAL to provide day-to-day management of the SBRLF;

The following is the Scope of Services (Exhibit A) to that Professional Services Agreement entered into as of July 1, 2017:

## **Article I. Shared Responsibilities**

The COUNTY and CALCOASTAL shall share responsibility for ensuring that the SBRLF is operated in a manner consistent with achieving the County’s overall economic development goals as identified in the SBRLF Administrative Plan as it is currently written or as it maybe amended from time to time in the future.

The following program elements are considered essential elements for the overall success of the SBRLF.

Section 1.01 The SBRLF program is one of the County’s economic development tools for assisting small businesses. The SBRLF program requires that sound underwriting standards be applied to all loans.

Section 1.02 Both parties to this Agreement have a responsibility to make the other party aware of ways in which the SBRLF could be modified to address changing lending conditions or market needs.

Section 1.03 In order to best meet the business finance needs or in response to requirements of the original grant agencies, the COUNTY may from time to time amend the Small Business Revolving Loan Fund Administrative Plan. If such amendments are not imposed by the Original Funding Entities, then the COUNTY shall only amend the SBRLF Administrative Plan after consultations with CALCOASTAL.

Section 1.04 The SBRLF requires that businesses meet additional goals to meet the County's economic development objectives and grant agency requirements, as outlined in the SBRLF Administrative Manual (Exhibit B), or as subsequently amended which include but are not limited to:

- (a) Job creation or retention: For approximately every \$20,000 of SBRLF dollars loaned, one full-time job should be created or retained.
- (b) Private sector leveraging: The borrower is expected to match one to one every SBRLF dollar loaned with either a new equity contribution or private loans.
- (c) Up to 70% of the portfolio can be for commercial enterprises. The remaining 30% is intended to assist industrial businesses.
- (d) Each portfolio has additional, specific requirements including geographic limitations and who should principally benefit from the program.

Section 1.05 The COUNTY and CALCOASTAL shall cooperatively work to adopt appropriate underwriting guidelines and collections procedures for delinquent loans.

- (a) The guidelines and collections procedures shall be developed and approved by the County Board of Supervisors and updated as necessary.
- (b) The collections procedures will be developed to maximize the return of capital to the SBRLF and minimize the period loans remain delinquent and subject to inclusion in the calculation of fees as described in Article IV of this Agreement.

Section 1.06 The following documents are incorporated by reference into this document so that all parties are aware of the original and ongoing requirements of the SBRLF:

- (a) Monterey County Small Business Revolving Loan Fund Administrative Manual (Exhibit B).
- (b) US Department of Commerce, Economic Development Administration Revolving Loan Fund Financial Assistance Award Standard Terms and Conditions dated May 1, 2013 or as subsequently amended by EDA (Exhibit C).

## **Article II. CALCOASTAL's Responsibilities**

Section 2.01 **MARKETING**

- (a) Implement a marketing strategy that will reach the population targeted by each program.
- (b) Ensure that the marketing strategy is in compliance with all EDA grant regulations and

the County's SBRLF Administrative Manual.

- (c) Consistent with requirements of the Original Funding Entities, CALCOASTAL shall cause one printed notice of availability to be published annually in the Monterey Herald and the Salinas Californian, or such other newspaper as may be mutually agreed upon.

Section 2.02 UNDERWRITING AND APPROVAL:

- (a) Prepare loan applications in compliance with the County's SBRLF Administrative Manual and all EDA grant regulations.
- (b) Document jobs created divided by retained.
- (c) CALCOASTAL will utilize their own Loan Committee to review and recommend action on loans proposed for the County's SBRLF program.
- (d) For purposes of this Section, the CALCOASTAL Loan Committee shall include a representative from the COUNTY as a voting member of the Loan Committee when loans proposed for funding with SBRLF dollars are being considered.

Section 2.03 LOAN MANAGEMENT:

- (a) Document and book approved loans.
- (b) Prepare monthly statements for each individual borrower
- (c) Receive and post borrower payments.
- (d) Prepare annual tax statements for borrowers.
- (e) Monitor, on an ongoing basis, loans to ensure that all terms and conditions of the loans are being met.
- (f) Conduct annual on-site visits of all current borrowers.
- (g) Maintain security interest in collateral, e.g. renew UCC filings as necessary

Section 2.04 PROGRAM ADMINISTRATION:

- (a) Appoint the COUNTY's Economic Development Director, or their designee, to the CALCOASTAL Loan Committee for purposes of reviewing and acting on loans proposed for funding with SBRLF dollars and ensuring that Loan Committee packets are delivered in a timely manner.
  
- (b) Prepare monthly financial statements for the County, including:
  - (i) Bank statements
  - (ii) Account Reconciliation Report - Detailed
  - (iii) Accruals Report
  - (iv) Balance Sheet
  - (v) Income Statement
  - (vi) Journal Report
  - (vii) Loan History
  - (viii) Trial Balance
  - (ix) Portfolio Report with the following information:
    - 1) Business Name
    - 2) Borrower Last Name
    - 3) Original Loan Date
    - 4) Original Loan Amount
    - 5) Maturity Date

- 6) Beginning Principal Balance
- 7) Loan Draws
- 8) Payment Date
- 9) Payment Amount
- 10) Principal Amount
- 11) Interest Amount
- 12) Fee Amount
- 13) Ending Principal Balance
- 14) Number of Days Delinquent
- 15) Comments on Delinquent Loans

(c) Provide the County with financial and borrower information necessary to complete the Original Funding Entities grant reports as required.

#### Section 2.05 COLLECTIONS

- (a) Periodically it may become necessary to refer borrowers who are delinquent on their debt and not responding to CALCOASTAL's collections efforts to professional debt collectors.
- (b) The COUNTY has an agreement with Credit Consulting Services (CCS) to provide these services. CALCOASTAL, at the direction of the Director of Economic Development and after a loan has been determined to be in default, shall work with CCS to transfer all records necessary for CCS to provide the services described in the COUNTY's Agreement with CCS and incorporated at Exhibit D.

### **Article III. County Responsibilities**

Section 3.01 To ensure that the COUNTY's Economic Development Director, or designee, attends all meetings of CALCOASTAL's Loan Committee when loans proposed for funding with SBRLF dollars are being considered.

Section 3.02 To actively work on developing a loan pipeline through its business attraction and retention programs.

Section 3.03 To actively work with CALCOASTAL to resolve loan delinquencies within 120 days, including meeting with borrowers if requested by CALCOASTAL.

Section 3.04 Prepare and submit all grant reports required by the Original Funding Agencies.

### **Article IV. Payment Provisions**

#### Section 4.01 TOTAL COMPENSATION

Total compensation paid under this agreement:

- (a) Cannot exceed the amount of RLF Income, as defined in Section 4.02, earned during the invoice period. The maximum compensation paid in any one County fiscal year shall be

\$150,000 in the event that RLF Income for that year is greater than \$150,000.

- (b) The amount due for services under this Agreement is calculated as follows:
  - (i) Determining the amount due for loans in good standing or delinquent (defined in Section 4.03);
  - (ii) Determining the amount due for loans that have defaulted on their original repayment plan or are subject to an alternative repayment plan or bankruptcy payment plan (defined in Section 4.04); and
  - (iii) Determining amount payable which is calculated as follows:
    - 1) Adding either (a) RLF Income or the amount due for loans in good standing or delinquent to (b) the amount due for loans that have defaulted on their original repayment plan or are subject to an alternative repayment plan or bankruptcy payment plan.
  - (iv) Provided that there is a source of funds which may be used to subsidize the general administration of the SBRLF, the County will use these additional funds to subsidize RLF Income not earned because extenuating economic circumstances have caused the County to approve loan deferments, including but not limited to; charge lower than usual interest rates, waiver of application fees or other mutually agreed reason.
  - (v) In general, it shall be the goal of the County to allocate these funds so that the P.A. receives 67% of the funds and the County receives 33% of the funds.
  - (vi) The County will provide the P.A. a subsidy of \$120,000 during the term of the EDA CARES Recapitalization Grant.

A template for calculating the amount due under this Section 4.01 is attached to this Exhibit A as Exhibit A.1.

#### Section 4.02 SOURCE OF FUNDS TO PAY FOR SERVICES

- (a) The SBRLF is intended to be self-sufficient and not have any net cost to the County for the day-to-day management of the program.
- (b) For all loans that are current or delinquent on payments, RLF Income is the only source of funds to compensate CALCOASTAL for services under this Agreement.
- (c) RLF Income Defined - RLF Income is defined as fees, interest earned on idle funds and interest earned on outstanding loan principal.
  - (i) RLF Income does not include interest earned on cash held in sequestration at the direction of an Original Funding Entity.
  - (ii) This interest, in excess of the first \$100, must be remitted to the U.S. Treasury.
- (d) RLF Income may not be used to pay costs in periods other than the one in which the RLF Income was received.

A template for calculating the amount available to compensate CALCOASTAL under this Section 4.02 is attached to this Exhibit A as Exhibit A.2

#### Section 4.03 INVOICING FOR LOANS IN GOOD STANDING OR DELINQUENT

- (a) The amounts paid under this Section 4.03 shall be the lesser of the calculated invoice due, as defined in Sections 4.03 (c) (i) through (vii) below, or RLF Income, as defined in Section 4.02 (c) above, received during the same period as covered by the invoice.
- (b) CALCOASTAL shall submit quarterly invoices based on the following schedule for all loans not subject to alternative repayment plans, subject to bankruptcy payment plans, or otherwise in default (EDA considers a loan in default if repayment is 90 or more days outside of the approved payment schedule) of their approved repayment plan:
  - (i) Underwriting of New Loans - “Origination Fees”
    - 1) \$2,000 on loans up to \$50,000
    - 1) 2.5% of loan value of loans between \$50,000.01 and \$100,000
    - 2) 2% of loan value of loans greater than \$100,000.01
    - 3) These fees are to be recaptured as part of the loan closing costs with the borrower.
  - (ii) Documentation of New Loans – “Documentation Fee”
    - 1) \$1,000 if documenting business assets only
    - 2) \$2,000 if documenting business and personal assets
    - 3) These fees are to be recaptured as part of the loan closing costs with the borrower.
  - (iii) Annual Loan Administration Fee
    - 1) \$1,000 per loan paid in quarterly installments
    - 2) Formula for determining quarterly fee is:
      - a)  $((\# \text{ loans outstanding month 1 plus month 2 plus month 3}) \text{ divided by } 3) \text{ times } 1000$  divided by 4)
      - b) Loans outstanding do not include loans subject to repayment as described in Section 4.04
  - (iv) Annual Management Fee
    - 1) \$12,000 flat fee paid in quarterly installments to manage the program.
  - (v) Loan Servicing Fee
    - 1) Variable fee based on the outstanding principal of all loans in good standing or delinquent (last payment was within 90-days of agreed payment schedule).
    - 2) Formula for determining quarterly fee is:
      - i)  $(\text{Outstanding principal month 1 plus month 2 plus month 3}) \text{ divided by } 3 \text{ equals average principal balance}$
      - b)  $(7.5\% \text{ times } \$250,000) \text{ divided by } 4$
      - c)  $\text{Plus } (5\% \text{ times } \$250,000) \text{ divided by } 4$
      - d)  $\text{Plus } (2.5\% \text{ times average principal balance greater than } \$500,000.01 \text{ and less than } \$1,500,000) \text{ divided by } 4$
      - e)  $\text{Plus } (2\% \text{ times average principal balance greater than } \$1,500,000.01) \text{ divided by } 4$
      - f) Equals Quarterly Loan Servicing Fee

A template for calculating the amount due under this Section 4.03 (c) (i-vi) is attached to this Exhibit A as Exhibit A.3.

**Section 4.04 INVOICING FOR LOANS THAT HAVE DEFAULTED ON THEIR ORIGINAL REPAYMENT PLAN, ARE SUBJECT TO AN ALTERNATIVE REPAYMENT PLAN, OR A BANKRUPTCY PAYMENT**

- (a) This Section establishes CALCOASTAL's compensation for loans that have defaulted on their original repayment plan or are subject to an alternative repayment plan or bankruptcy payment plan.
- (b) Payments made under this Section 4.04 are subject to the annual cap described in Section 4.01 (a).
- (c) Payments made under this Section 4.04 shall be calculated on each payment made by any borrower whose loan is in default on their original repayment plan, or are subject to an alternative repayment plan or bankruptcy payment plan.
- (d) The amount due for each loan subject to alternative repayment plans, subject to bankruptcy payment plans, or otherwise in default of their originally approved repayment obligations based is (5%) percent of the principal outstanding at the time payment is made, divided by twelve (12).
  - (i) (Outstanding principal of loan at the time the payment is made times 5%) divided by 12
  - (ii) In no event shall the amount payable under this Section 4.04 exceed 50% of the amount received.

A template for calculating invoices subject to this Section 4.04 is attached to this Exhibit A as Exhibit A.4.

**Section 4.05 PAYMENT OF COLLECTIONS ON LOANS REFERRED TO AN OUTSIDE COLLECTION AGENCY**

- (a) CCS will remit the net amount collected from referred borrowers to CALCOASTAL for deposit into the COUNTY's bank account.
- (b) The net amount collected, provided CCS has provided an accounting of the full amount collected, is the full amount collected from referred borrowers less:
  - (i) Fifteen (15%) of any funds recovered by without a judgement.
  - (ii) Twenty-five (25%) of any funds recovered as a result of a judgement, provided that such action was authorized in advance by the Board of Supervisors.
  - (iii) Payments made under this Section 4.05(b) and paid to CCS shall not count against the Total Compensation cap described in Section 4.01(a).
- (c) CALCOASTAL shall be entitled to a processing fee for the receipt, deposit, and payment services provided under this Section 4.05.
  - (i) Such fee shall be calculated according to Section 4.04(a) - (d) and are subject to the Total Compensation described in Section 4.01(a).

**Section 4.06 DIRECT THIRD PARTY COSTS** including, but not limited to, UCC searches, filings, recordings, appraisals and fees to release liens on paid off loans shall be collected from the borrower by CALCOASTAL.

CALCOASTAL is authorized to collect these fees from the borrower and pay the

associated third party costs out of the COUNTY's SBRLF account.

- (a) Fees collected and paid pursuant to this section 4.06, including fees paid to CALCOASTAL by borrowers for miscellaneous services, e.g. fees for notarizing recorded documents, are not subject to the Total Compensation described in Section 4.01(a).

Section 4.07 CALCOASTAL warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

## **Article V. Other Provisions**

Section 5.01 County Standard Agreement Section 3.02 TERM OF A shall be deleted and replaced in its entirety with the following:

- (a) During the term of this Agreement, the County or CALCOASTAL may terminate the Agreement, without cause, with a ninety (90) day written notice, or with cause immediately.

Section 5.02 County Standard Agreement Section 7.01 TERMINATION shall be deleted and replaced in its entirety with the following:

- (a) During the term of this Agreement, the County or CALCOASTAL may terminate the Agreement for any reason by giving written notice of termination to the other party at least ninety (90) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

Section 5.03 RFP #10598 Article 7.1, Section 9, Bonds

- (a) The COUNTY agrees to amend the RFP requirement that the CALCOASTAL have Fidelity Bond Insurance in the amount of Two Million Six Hundred Thousand Dollars (\$2,600,000.00) to Two Hundred Thousand Dollars. The \$2,600,000 represents the full amount of original capitalization for the SBRLF and was required at the time the original grants were made to the COUNTY. Since the SBRLF is now actively revolving and most funds should be loaned out, a lower level of Fidelity Bond Insurance is appropriate because there are fewer idle funds which may be misappropriated due to employee dishonesty. In addition, CALCOASTAL has provided the County with documentary evidence of its inability to obtain bonds greater than Two Hundred Thousand Dollars (\$200,000).
- (b) The COUNTY will accept evidence that CALCOASTAL has Fidelity Bond Insurance in the amount of Two Hundred Thousand Dollars (\$200,000.00) at the time this Agreement is executed.