

**NAPA COUNTY AGREEMENT NO. 250198B**

**PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into by and between Napa County, a political subdivision of the State of California, hereinafter referred to as “County,” and LPA, Inc. a California corporation, whose address is 5301 California Avenue, Suite 100, Irvine, CA 92617, hereinafter referred to as “Consultant.”

**RECITALS**

- A. County wishes to obtain professional architectural, engineering, and related services for the design of the projects included in the County’s Facilities Master Plan Option 4 approved by the Board of Supervisors on April 9, 2024 (Project).
- B. Consultant was selected to provide professional services after a competitive process conducted pursuant to Request for Qualifications No. PW052401 (RFQ).
- C. For good and valuable consideration, the sufficiency of which is acknowledged, County and Consultant agree as follows:

**AGREEMENT**

**ARTICLE I – SCOPE OF SERVICES**

**1.1 Scope of Services.** Consultant shall provide professional services to County as described in Exhibit “A,” in accordance with the Contract Documents. The Contract Documents consist of this Agreement and its Exhibits, the RFQ issued by County, and Consultant’s proposal or statement of qualifications. County and Consultant recognize the scope of services in Exhibit “A” is the first of two anticipated phases and does not represent all the work necessary to complete the Project. The parties intend to amend this Agreement after the additional scope and cost is known and funding is available.

**1.2 Schedule.** Consultant shall use commercially reasonable efforts to perform and complete Phase 1 of the scope of services by March 4, 2025. Consultant shall further endeavor to meet the interim milestones set forth in Exhibit “A,” though failure to do so shall not be considered a material breach of this Agreement. The schedule shall be adjusted as mutually agreed by the parties in writing, to the extend Additional Services requested by County under paragraph 3.1.3 affects the critical path of the Project.

**1.3 Standard of Care.** Consultant represents that the professional services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California.

Consultant shall correct any professional services falling below this standard at its sole cost and expense, if notified by County within one year after completion of such services. This standard of care is in addition to any other remedies that may be available to County in law or equity.

**1.4 Correction of Deficient Services.** Consultant shall take reasonable steps to commence correction of any services that fails to meet the standard of care within seven (7) days of receipt of written notice from County unless otherwise agreed by the parties. If Consultant fails to commence such steps within the seven (7) day or other agreed-upon period, County may, in addition to any other remedies provided under the Contract Documents, commence correction of such services upon written notice to Consultant. If County takes such corrective action, Consultant shall be responsible for all reasonable costs incurred by County in performing such correction.

**1.5 Other Remedies.** This Article applies only to Consultant's obligation to correct services that do not meet the standard of care and is not intended to constitute a period of limitations or waiver of any other rights or remedies County may have regarding the Consultant's other obligations under the Contract Documents or federal or state law.

**1.6 Key Personnel.** Key personnel identified in Consultant's proposal or statement of qualifications shall be the individuals who will actually perform the services. Changes in key personnel must be reported by Consultant in writing and approved by County.

**1.7 Government Code Section 7550.** Every document or report prepared by Consultant for or under the direction of County pursuant to this Agreement shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the document or written report if the total cost for the work performed by nonemployees of County exceeds five thousand dollars (\$5,000). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject or product of this Agreement, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

## ARTICLE II – DURATION OF AGREEMENT

**2.1 Term of the Agreement.** The effective date of this Agreement is the date the last party signs this Agreement. This Agreement shall expire one year after completion of the scope of services, unless terminated earlier in accordance with this Article.

**2.2 Suspension for Convenience.** County may suspend all or any portion of Consultant's performance under this Agreement at its sole option and for its convenience for a reasonable period of time not to exceed sixty (60) days. County must first give ten (10) days written notice to Consultant of such suspension. County will pay to Consultant a sum equivalent to the reasonable value of the services satisfactorily provided up to the date of suspension. County may rescind the suspension prior to or at sixty (60) days by providing Consultant with written notice

of the rescission, at which time Consultant will be required to resume performance in compliance with the terms and provisions of this Agreement. Consultant shall be entitled to an extension of time to complete performance equal to the length of the suspension unless otherwise agreed to in writing by the parties. For any suspension or other County-caused delay of longer than sixty (60) days, Consultant shall be entitled to an increase in compensation equivalent to the increased costs incurred by Consultant due to the extended period of performance.

**2.3 Termination for Convenience.** At its sole option and for its convenience, County may terminate all or any portion of this Agreement by giving thirty (30) days written notice of such termination to Consultant. The termination of the Agreement shall be effective upon receipt of the notice by Consultant. After termination of all or any portion of the Agreement, Consultant shall immediately discontinue all affected performance (unless the notice directs otherwise) and complete any additional work necessary for the orderly filing of documents and closing of Consultant's affected performance under the Agreement. Consultant shall deliver to County all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Consultant in performing this Agreement, whether completed or unfinished. Consultant may keep copies for its own records. County shall pay Consultant for services satisfactorily provided before the effective date of termination, and reasonable costs incurred by Consultant in providing County with the data and documents required by this paragraph. Consultant shall not be compensated for lost or anticipated profit or overhead on the terminated portion of this Agreement.

**2.4 Termination for Cause.** County may terminate this Agreement for default if Consultant fails to satisfactorily perform any material obligation required by this Agreement. Default includes Consultant's failure to timely provide services in accordance with the schedule. If Consultant fails to satisfactorily cure a default within ten (10) days of receiving written notice from County specifying the nature of the default, County may immediately terminate this Agreement, and terminate each and every right of Consultant, and any person claiming any rights by or through Consultant under this Agreement. The rights and remedies of County enumerated in this paragraph are cumulative and shall not limit, waive, or deny any of County's rights under any other provision of this Agreement. Nor does this paragraph otherwise waive or deny any right or remedy, at law or in equity, that may be available to County.

**2.4.1 Absence of Default.** If after County gives notice of termination for cause, it is determined that Consultant was not in default of a material obligation of this Agreement, the termination shall be deemed to be a termination for the convenience of County under paragraph 2.3.

**2.4.2 Cost to Cover.** If County terminates this Agreement for cause, County may procure equivalent services from a different source, and Consultant shall reimburse County for any increased costs.

**2.5 Purchasing Agent's Authority.** The County Purchasing Agent or their designee is hereby authorized to make all decisions and take all actions required under this Article to suspend or terminate this Agreement.

**2.6 Suspension for Non-Payment.** If County fails to make undisputed payments to Consultant in accordance with this Agreement, Consultant shall be entitled to suspend its services if County fails to pay such undisputed amounts within ten (10) days after receipt of written notice from Consultant of such failure to pay.

### ARTICLE III – COMPENSATION

**3.1 Amount of Compensation.** County shall pay Consultant for satisfactory performance of the scope of services, as follows:

**3.1.1 Rates.** County shall pay Consultant the fixed price of four hundred thirty-five thousand dollars (\$435,000) according to the compensation and fee schedule set forth in Exhibit "B."

**3.1.2 Expenses.** Travel or other expenses will only be reimbursed by County if such expenses are specifically identified in Exhibit "B." Any travel expenses must comply with the Napa County Travel Policy found in the Napa County Policy Manual, Part I, Section 43, regardless of anything to the contrary in Exhibit "B."

**3.1.3 Additional Services.** County may require that Consultant perform additional services, including those services identified in Exhibit "A" as "Optional Services," "Additional Services," and "Supplemental Services." County and Consultant must agree in writing upon a fee for the Additional Services prior to CONTRACTOR's performance of any additional services, which may be a fixed price or based on the hourly rates set forth in Exhibit "B." The total cost of any additional services performed under this Agreement shall not exceed two hundred and twenty-five thousand dollars (\$225,000).

**3.1.4 Maximum Amount.** Notwithstanding paragraphs 3.1.1, 3.1.2, and 3.1.3, the maximum payments under this Agreement shall not exceed a total of six hundred sixty thousand dollars (\$660,000); provided, however, that such amount shall not be construed as a guaranteed sum, and compensation shall be based upon services actually provided and reimbursable expenses actually incurred.

**3.2 Payment Process.** Consultant may submit one invoice per calendar month, in arrears for services provided, to the Director of Public Works, who will review the invoice to confirm its contents match the services provided during the period covered by the invoice. If approved, the invoice will be forwarded to the Napa County Auditor no later than fifteen (15) days following receipt of the invoice.

**3.2.1 Content of Invoices.** Invoices shall be in a form acceptable to the Napa County Auditor which indicate Consultant's name, address, Social Security or Taxpayer Identification Number, and the name of the project or Napa County Agreement number. If this Agreement provides for payment based on unit prices or tasks completed, invoices shall include itemization of the hours worked, descriptions of the tasks completed during the billing period, the names and positions of person(s) performing the services, and the hourly or task rates. If the Agreement provides for a fixed or lump sum price and Consultant presents monthly invoices, each invoice must indicate the percentage of work completed (e.g., 50% of design or draft report), which will allow Consultant to be paid the equivalent percentage of the fixed price.

**3.2.2 Expenses.** If the Agreement provides for reimbursement of expenses, invoices shall describe the nature and cost of the expense, and the date incurred. Receipts must be included with the invoice, with the exception of per diem reimbursements.

**3.3 Annual Appropriation of Funds.** Consultant acknowledges that the term of this Agreement may extend over multiple County fiscal years, and that compensation under this Agreement is contingent on the Board of Supervisors appropriating funding for this Agreement for those fiscal years. This Agreement may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. County is not obligated to pay Consultant, nor is Consultant obligated to provide further services if sufficient funds have not been appropriated and authorized by the Board of Supervisors.

**3.4 Price Adjustments.** After the first contract year, County may increase the unit prices or hourly rates in Exhibit "B" upon approval of Consultant's written request and justification as set forth in this paragraph. Increases may only be made once per contract year in an amount not to exceed the increase in the Consumer Price Index for the San Francisco-Oakland-Hayward area for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one-year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later years. Consultant's request and justification must include the amount of the requested adjustment, a description of the nature and magnitude of the increased costs impacting Consultant, explain how the requested adjustment reflects such increased costs, and the proposed effective date of the price adjustment. Consultant must provide such written request and justification no less than sixty days before the proposed effective date of the price adjustment. County may only approve Consultant's request in writing. This paragraph does not apply where compensation is based on fixed prices or lump sums.

#### ARTICLE IV – INSURANCE

**4.1 Insurance.** Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the insurance coverage set forth in Exhibit "C."

**4.2 Inclusion in Subcontracts.** Consultant shall require its subconsultants and any other entity or person providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in Exhibit "C."

## ARTICLE V – INDEMNIFICATION

**5.1 Indemnification and Hold Harmless.** To the fullest extent permitted by law, Consultant shall defend at its own expense, indemnify, and hold harmless County and its officers, agents, employees, volunteers, and representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of Consultant or its officers, agents, employees, volunteers, consultants and subconsultants in providing services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the active or sole negligence or willful misconduct of County or its officers, agents, employees, volunteers, or representatives. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

**5.2 Design Professionals.** To the extent Consultant is providing the services of an architect, landscape architect, professional engineer, or professional land surveyor, Consultant's obligation to defend and indemnify County under paragraph 5.1 is limited to liability, claims, actions, proceedings, losses, injuries, damages or expenses that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant pursuant to Civil Code section 2782.8. The Consultant shall owe no duty to provide an upfront defense and the cost of defense charged to Consultant shall not exceed Consultant's proportionate percentage of fault.

**5.3 Effect of Insurance.** The provisions of this Article are not limited by the requirements of Article IV related to insurance.

**5.4 Enforcement Costs.** Consultant shall reimburse any and all costs County incurs enforcing the indemnity, hold harmless, and defense provisions set forth in this Article.

**5.5 Survival.** This Article shall survive termination or expiration of this Agreement and continue so long as a viable claim exists.

## ARTICLE VI – MANDATORY COUNTY PROVISIONS

**6.1 Compliance with County Policies.** Consultant shall comply, and require its employees and subconsultants to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and hereby incorporated by reference.

**6.1.1** Napa County “Waste Source Reduction and Recycled Product Content Procurement Policy” which is found in the Napa County Policy Manual Part I, Section 8D.

**6.1.2** Napa County “Discrimination, Harassment and Retaliation Prevention Policy,” which is found in the Napa County Policy Manual Part I, Section 37K.

**6.1.3** Napa County “Drug and Alcohol Policy,” which is found in the Napa County Policy Manual Part I, Section 37O.

**6.1.4** “Napa County Information Technology Use and Security Policy” which is found in the Napa County Policy Manual Part I, Section 31A.

**6.1.5** Napa County “Workplace Violence Policy,” which is found in the Napa County Policy Manual Part I, Section 37U.

**6.2 Inducement of County employees.** Consultant shall not permit its officers, agents, or employees to engage in any activities during the performance of any of services under this Agreement, which would interfere with compliance or induce violation of these policies by County employees or consultants.

## ARTICLE VII – COMPLIANCE WITH LAWS

**7.1 Compliance with Controlling Law.** Consultant shall comply with all laws, ordinances, regulations, and policies of federal, California, and local governments applicable to this Agreement. Consultant shall comply immediately with all directives issued by County or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations.

**7.2 Conflict of Interest.** Consultant acknowledges that they are aware of the provisions of Government Code sections 1090, et seq., and sections 87100, et seq., relating to conflict of interest of public officers and employees. Consultant hereby covenants that it presently has no interest not disclosed to County and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of the scope of services under this Agreement. Consultant further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. Violation of this paragraph by Consultant is a material breach of this Agreement which may result in termination of the Agreement for cause.

**7.3 Prevailing Wage Requirements.** The scope of services includes “public works” as defined in the California Labor Code. Consultant shall comply with all State prevailing wage requirements, including but not limited to, those set forth in Exhibit “D.”

## ARTICLE VIII – DISPUTE RESOLUTION

**8.1 Mandatory Non-binding Mediation.** If a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation through Judicial Arbitration and Mediation Services (JAMS) or any other neutral organization agreed to by the parties. To initiate mediation, the initiating party shall send written notice of its request for mediation to the opposing party. Mediation is mandatory before either party may initiate litigation or have recourse in a court of law.

**8.2 Mediation Costs.** The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

**8.3 Selection of Mediator.** A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator may be selected from lists furnished by JAMS or any other agreed upon mediator. The parties shall endeavor to agree on a mediator within ten (10) business days, unless a longer period is mutually agreed to in writing by Consultant and County. If the parties cannot agree on a mediator, JAMS or other neutral organization shall select the mediator.

**8.4 Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though County's recommendation of settlement may be subject to the approval of the Board of Supervisors. Either party may have attorney(s), witnesses, or expert(s) present. Either party may request a list of witnesses and notification whether attorney(s) will be present.

**8.5 Mediation Results.** Any resultant agreements from mediation shall be documented in writing. Mediation results and documentation, by themselves, shall be “non-binding” and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed to in writing by both parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

## ARTICLE IX – GENERAL PROVISIONS

**9.1 Access to Records/Retention.** County and its representatives have the reasonable right of access to Consultant’s premises to review and audit Consultant’s compliance with the provisions of this Agreement. This includes the right to inspect and photocopy Consultant’s records related to performance of this Agreement, and to retain copies of such records outside of Consultant’s premises with appropriate safeguards, if such retention is deemed necessary by



County in its sole discretion. Consultant shall maintain all records related to this Agreement for at least four (4) years after expiration or termination of this Agreement.

**9.2 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 certified mail, postage prepaid, return receipt requested. 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.

COUNTY

Steve Lederer  
Director of Public Works  
1195 Third Street, Suite 101  
Napa, CA 94559

CONSULTANT

Jon Mills  
Chief Operating Officer  
5301 California Ave., Suite 100  
Irvine, CA 92617

**9.3 Independent Contractors.** Consultant and its subconsultants, if any, are independent contractors and not agents of County. Any provisions of this Agreement that may appear to give County any right to direct Consultant concerning the details of performing the scope of services, or to exercise any control over such performance, shall mean only that Consultant shall follow the direction of County concerning the end results of the performance.

**9.4 Contract Interpretation.** This Agreement and all Contract Documents shall be deemed to be made under, and shall be construed in accordance with and governed by, the laws of the State of California without regard to the conflicts or choice of law provisions thereof. It is the intent of the Contract Documents to completely describe the goods and services to be provided. Any work, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result shall be supplied whether or not specifically called for or identified in the Contract Documents. When words or phrases which have a well-known technical or industry or trade meaning are used to describe work, materials, equipment, goods, or services such words or phrases shall be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the order of precedence shall be as set forth below in descending order of precedence (the document in paragraph 9.4.1 having the highest precedence). Provisions of the Contract Documents addressing the same subject which are consistent but have different degrees of specificity shall not be considered to be in conflict, and the more specific language shall control. Order of Precedence:

- 9.4.1 This Agreement.
- 9.4.2 The Exhibits to this Agreement.

- 9.4.3 The RFQ or RFP issued by County.
- 9.4.4 Consultant's proposal or statement of qualifications.

**9.5 Drafting Ambiguities.** The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms, and conditions of this Agreement, and the decision of whether to seek advice of legal counsel with respect to this Agreement is the sole responsibility of each party. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement.

**9.6 Third Party Beneficiaries.** Unless expressly set forth in this Agreement, none of the provisions of this Agreement are intended to benefit any third party not specifically referenced herein. No person other than County and Consultant shall have the right to enforce any of the provisions of this Agreement.

**9.7 Force Majeure.** In the event either party's performance is delayed due to causes which are outside the control of both parties and their subconsultants, contractors and employees, and could not be avoided by the exercise of due care, which may include, but is not limited to, delays by regulating agencies, wars, floods, adverse weather conditions, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, fires, terrorism, incidence of disease or other illness that reaches outbreak, epidemic and/or pandemic proportions, unusual delay in deliveries, riots, civil commotion or other unavoidable casualties, and other acts of God, both parties will be entitled to an extension in their time for performance equivalent to the length of delay. Neither party will be entitled to compensation from the other for force majeure events.

**9.8 Confidentiality of Services.** All services performed by Consultant and any subconsultants, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Consultant, are for the sole use of County. Neither the documents nor their contents shall be released by Consultant or any subconsultant to any third party without the prior written consent of County. This provision does not apply to information that: (1) was publicly known, or otherwise known to Consultant, at the time it was disclosed to Consultant by County; (2) subsequently becomes publicly known through no act or omission of Consultant; or (3) otherwise becomes known to Consultant other than through disclosure by County.

**9.9 Insolvency.** Consultant shall notify County if Consultant enters into bankruptcy proceedings. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of County contract numbers and contracting offices for all County contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Agreement.

**9.10 Attorneys Fees.** If 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. This paragraph does not apply to attorney's fees or costs incurred during mediation.

**9.11 Exhibits Incorporated.** All Exhibits referenced in this Agreement are hereby incorporated into the Agreement by this reference.

**9.12 County Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of County as a subdivision of the State of California. Nothing in this Agreement shall be interpreted as limiting the rights and obligations of County in its governmental or regulatory capacity.

**9.13 Survival of Obligations.** All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive completion and acceptance of the scope of services and termination or completion of the Agreement.

**9.14 Severability.** Should any provision of this Agreement be held invalid or illegal by a court or administrative agency of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either or both parties' essential objectives set forth in this Agreement.

**9.15 Amendment/Modification.** This Agreement may be modified or amended only in writing and with the prior written consent of both parties. Failure of Consultant to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in compensation or contract time and no compensation shall be paid for such extra work.

**9.16 No Waivers.** 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.

**9.17 No Assignments.** Consultant may not assign the obligations under this Agreement, nor any monies due or to become due under this Agreement, without County's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Agreement at County's sole discretion. In no event shall any putative assignment create a contractual relationship between County and any putative assignee.

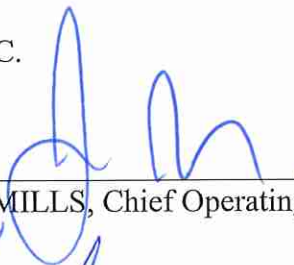
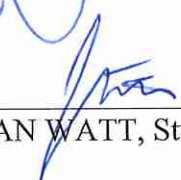
**9.18 Successors in Interest.** All rights and obligations created by this Agreement shall be in force and effect whether or not any parties to the Agreement have been succeeded by another

entity, and all rights and obligations created by this Agreement shall be vested and binding on any party's successor in interest.

**9.19 Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, 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.

**9.20 Counterparts.** This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

**IN WITNESS WHEREOF**, this Agreement is executed by County, acting by and through the Chair of the Board of Supervisors, and by Consultant through its duly authorized officer(s).

LPA, INC.  
By   
SMH JON MILLS, Chief Operating Officer 9/16/24  
By  9/17/24  
JULIAN WATT, Studio Director

NAPA COUNTY, a political subdivision of the State of California

By \_\_\_\_\_  
JOELLE GALLAGHER, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <u>Thomas C. Zeleny</u> Deputy County Counsel Date: <u>September 10, 2024</u>	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____
--	--	--

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

**I. Description of Services**

Consultant shall perform the services described in the "Scope of Services, Napa County Facilities Master Plan Implementation" prepared by Consultant and dated August 30, 2024, which is hereby incorporated herein by reference.

**II. Schedule**

Task or Milestone	Completion Date
Governance	October 22, 2024
Workplace Strategy & Programming	November 18, 2024
Due Diligence	November 19, 2024
Conceptual Design	January 23, 2025
Schedule Development & Budgeting	March 4, 2025
Phase 1 Completion	March 4, 2025

**EXHIBIT "B"**  
**COMPENSATION AND FEE SCHEDULE**

000	General (Included below)	
100	Pre-Design:	
110	Due Diligence:	\$101,062
120	Workplace Strategy & Programming:	\$102,532
130	Conceptual Design & Phasing:	\$137,066
140	Schedule and Budgeting:	\$94,340
	<b>Sub-Total:</b>	<b>\$435,000</b>
<hr/>		
	Optional and Supplemental Services Allowance	\$225,000
	<b>TOTAL FEE:</b>	<b>\$660,000</b>

**BASIC HOURLY RATES**

Role	Rate
Principal	\$295.00
Discipline Director	\$260.00
Project Director	\$250.00
Project Leader	\$200.00
Design Coordinator II	\$170.00
Design Coordinator I	\$145.00
Designer III	\$135.00
Designer II	\$120.00
Designer I	\$110.00
Intern	\$85.00
<b>Support Roles</b>	
Director	\$250.00
Manager	\$165.00
Senior Specialist	\$150.00
Specialist III	\$110.00
Specialist II	\$95.00
Specialist I	\$85.00

NOTE: These rates become effective January 18, 2024 and are subject to change annually.

**EXHIBIT "C"**  
**INSURANCE REQUIREMENTS**

**C.1 Workers Compensation Insurance.** To the extent required by law during the term of this Agreement, Consultant shall provide workers compensation insurance for the performance of any of Consultant's duties under this Agreement, including but not limited to, coverage for workers compensation and employer's liability and a waiver of subrogation, and shall provide County with certification of all such coverages upon request by County's Risk Manager.

**C.2 Liability Insurance.** Consultant shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:

**C.2.1 General Liability.** Commercial general liability (CGL) insurance coverage (personal injury and property damage) of not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Consultant or any officer, agent, or employee of Consultant under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

**C.2.2 Professional Liability/Errors and Omissions.** Professional liability (or errors and omissions) insurance for all activities of Consultant arising out of or in connection with this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per claim and SEVEN MILLION DOLLARS (\$7,000,000) in the aggregate. Consultant may achieve the required limits and coverage for Professional liability (or errors or omissions) insurance through a combination of primary and excess liability insurance.

**C.2.3 Comprehensive Automobile Liability Insurance.** Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Consultant's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 10 13 including symbol 1 (any Auto) or the exact equivalent. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in Paragraph C.2.1, above or a standalone hired and non-owned policy. If Consultant or Consultant's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, Consultant shall provide evidence of personal auto liability coverage for each such person upon request.

**C.3 Certificates of Coverage.** All insurance coverages referenced in Paragraph C.2, above, shall be evidenced by one or more certificates of coverage or, with the consent of County's Risk

Manager, demonstrated by other evidence of coverage acceptable to County's Risk Manager, which shall be filed by Consultant with the County Department administering this Agreement prior to commencement of the Scope of Services.

**C.3.1 Notice of Cancellation.** The certificate(s) or other evidence of coverage shall reference this Agreement by its County number or title and department; shall be kept current during the term of this Agreement; shall provide that County shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, or other termination.

**C.3.2 Multiple Insureds.** The certificate(s) shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

**C.3.3 Waiver of Subrogation and Additional Insured Endorsements.** For the commercial general liability insurance coverage referenced in Subparagraph C.2.1 and, for the comprehensive automobile liability insurance coverage referenced in Subparagraph C.2.3 where the vehicles are covered by a commercial policy rather than a personal policy, Consultant shall also file with the evidence of coverage an endorsement from the insurance provider naming Napa County, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, Consultant shall file an endorsement waiving subrogation with the evidence of coverage.

**C.3.4 Additional Requirements.** The CGL policy shall provide a per project aggregate endorsement, and that the insurance provided is primary coverage to County with respect to any insurance or self-insurance programs maintained by additional insureds. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Blanket endorsements are acceptable if on form CG 20 33 or CG 20 38. Primary coverage may be demonstrated by form CG 20 01.

**C.4 Copies of Policies.** Upon request by County's Risk Manager, Consultant shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

**C.5 Deductibles/Retentions.** Any deductibles or self-insured retentions shall be declared to, and be subject to approval by County's Risk Manager, which approval shall not be denied unless the County's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of Consultant by this Agreement. At the option of and upon request by County's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects County, its officers, employees, agents, and



volunteers or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**EXHIBIT "D"**  
**CALIFORNIA PREVAILING WAGE REQUIREMENTS**

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is "public works" subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

**D.1 Payment of Prevailing Wages.** Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite.

**D.1.1** Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

**D.1.2** The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

**D.2 Penalties for Violations.** Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This is in addition to any other applicable penalties allowed under the California Labor Code.

**D.3 Payroll Records.** Contractor shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require all subcontractors to also comply with section 1776 to the extent they are performing public works. Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. Contractor and all subcontractors shall also furnish the records to County at County's request. Contractor shall ensure its subconsultants and subcontractors prepare and submit payroll records to the DIR and County as required by this paragraph.

**D.3.1** If Contractor and any subcontractors are exempt from the DIR registration requirement pursuant to paragraph D.9.3 below, then Contractor and any subcontractors are not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

**D.3.2** County may require Contractor and its subcontractors to prepare and submit records specified in section 1776 to County and the Labor Commissioner on a weekly basis, at no additional cost to County.

**D.4 Apprentices.** Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices on public works projects. Contractor is responsible for compliance for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n), and could be penalized for violations of its subcontractors pursuant to California Labor Code section 1777.7.

**D.5 Working Hours.** Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815. Contractor and all subcontractors shall restrict the time of service of any worker on a public works project to eight hours during any one calendar day and forty hours during any one calendar week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay. Violations are subject to penalties of \$25 per worker per day pursuant to California Labor Code section 1813.

**D.6 Required Provisions for Subcontracts.** Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1813, and 1815.

**D.7 Labor Code Section 1861 Certification.** In accordance with California Labor Code section 3700, Contractor is required to secure the payment of compensation of its employees. By signing the Agreement to which this is an exhibit, Contractor certifies that:

“I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and

I will comply with such provisions before commencing the performance of the work of this contract.”

**D.8 Compliance Monitoring and Enforcement.** This project is subject to compliance monitoring and enforcement by the DIR. County must withhold contract payments from Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

**D.9 Registration Requirements.** Contractor and any subcontractors shall not engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5.

**D.9.1** By signing the Agreement to which this is an Exhibit, Contractor is certifying that it has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5.

**D.9.2** County may ask Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and Contractor shall provide the list within ten (10) working days of County’s request.

**D.9.3** The registration requirement does not apply on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work, or on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

**D.10 Stop Order.** Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a misdemeanor.