



**NAPA-VALLEJO WASTE  
MANAGEMENT AUTHORITY**

**NAPA VALLEJO WASTE MANAGEMENT AUTHORITY  
AGREEMENT NO 2024-03**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 14th day of September, 2023, by and between the Napa-Vallejo Waste Management Authority, hereinafter referred to as "AUTHORITY," a joint powers agency organized under the laws of the State of California pursuant to Government Code section 6500 et seq., and R3 Consulting Group, Inc., whose business address 1512 is Eureka Road, Suite 220, Roseville, CA 95661, hereinafter referred to as "CONSULTANT". AUTHORITY and CONSULTANT will be referred to from time to time in this Agreement individually as "Party" and collectively as "Parties."

**RECITALS**

**WHEREAS**, AUTHORITY wishes to obtain specialized professional services pursuant to Government Code section 31000, to assist the AUTHORITY in reviewing and possibly negotiating a new or extended contract for the operation of the Devlin Road Transfer Station; and

**WHEREAS**, CONSULTANT is willing to provide such specialized professional services to AUTHORITY under the terms and conditions set forth herein;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the Parties, AUTHORITY hereby engages the services of CONSULTANT, and CONSULTANT agrees to serve AUTHORITY in accordance with the terms and conditions set forth herein:

**TERMS**

**1. Term of the Agreement.** The term of this Agreement shall commence on September 14, 2023, and shall expire on June 30, 2025, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the Parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early

termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONSULTANT to AUTHORITY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention).

2. **Scope of Services.** CONSULTANT shall provide AUTHORITY those services set forth as Tasks 1 through 4 in accordance with CONSULTANT'S proposal dated August 29, 2023, attached hereto as "Exhibit "A" and hereby incorporated by reference. CONSULTANT shall also provide those services set forth as Task 5 in Exhibit "A," but only upon the prior written authorization of the AUTHORITY, as such services may not be necessary depending on the outcome of Tasks 1 through 4.

3. **Compensation.**

(a) **Rates.** In consideration of CONSULTANT's performance of Tasks 1 through 4, AUTHORITY shall pay CONSULTANT the amount of FIFTY THOUSAND DOLLARS (\$50,000) in three installments, as set forth in Exhibit "A," based on equivalent amounts of work on Tasks 1 through 4 having been completed. In consideration of CONSULTANT's performance of Task 5, should such work be authorized by AUTHORITY, AUTHORITY shall pay CONSULTANT the amount of SIXTY THOUSAND DOLLARS (\$60,000) in three equal installments, as set forth in Exhibit "A," based on equivalent amounts of work on Task 5 having been completed.

(b) **Expenses.** Travel and other expenses are already included in the amounts set forth in this section.

(c) **Maximum Amount.** Notwithstanding subparagraphs (a) and (b), the maximum payments for professional services under this Agreement shall not exceed a total of ONE HUNDRED TEN THOUSAND DOLLARS (\$110,000).

4. **Method of Payment.**

(a) **Invoices.** All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONSULTANT to AUTHORITY of an itemized billing invoice in a form reasonably acceptable to the Napa County Auditor which indicates, at a minimum, CONSULTANT's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked or, where compensation is on a per-task basis, a description of the tasks and/or subtasks completed during the billing period, the person(s) actually performing the services and the position(s) held by such person(s), and the approved hourly or task rate. Requests for reimbursement shall also describe the nature and cost of the expense and the date incurred. CONSULTANT shall submit invoices not more often than monthly to the Authority Executive Director who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. Payment on undisputed invoice amounts is due within 30 days of approval of the invoice by AUTHORITY and is past due sixty (60) days from the date of the invoice.

(b) **Legal status.** So that AUTHORITY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONSULTANT is or becomes a corporation during the term of this Agreement, proof that such status is currently recognized by

and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the Clerk of the Authority's Board of Directors upon request in a form reasonably satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONSULTANT within the State of California.

5. **Independent Contractor.** CONSULTANT shall perform this Agreement as an independent contractor. CONSULTANT and the officers, agents and employees of CONSULTANT are not, and shall not be deemed, AUTHORITY employees for any purpose, including workers' compensation and employee benefits. CONSULTANT shall, at CONSULTANT's own risk and expense, determine the method and manner by which duties imposed on CONSULTANT by this Agreement shall be performed; provided, however, that AUTHORITY may monitor the work performed by CONSULTANT. AUTHORITY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONSULTANT, including, but not limited to amounts required to be withheld for state and federal taxes. As between the Parties to this Agreement, CONSULTANT shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONSULTANT, including the agents or employees of CONSULTANT, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONSULTANT under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, AUTHORITY, in addition to any other rights or remedies which AUTHORITY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONSULTANT.

7. **Insurance.** CONSULTANT shall obtain and maintain in full force and effect throughout the term of this Agreement, as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) **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 shall provide AUTHORITY with certification of all such coverage upon request by AUTHORITY's Risk Manager.

(b) **Liability insurance.** CONSULTANT shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverage issued by a company authorized to do business in California and having an A.M. Best rating of A:VII or better or equivalent self-insurance:

(1) **General Liability.** Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate, 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.

(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 ONE MILLION DOLLARS (\$1,000,000) per claim and TWO MILLION DOLLARS (\$2,000,000) annual aggregate.

(3) Business Automobile Liability Insurance. Business 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 accident. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates. All insurance coverage referenced in paragraph 7(b), above, shall be evidenced by one or more certificates of coverage or, with the reasonable consent of AUTHORITY's Risk Manager, demonstrated by other evidence of coverage acceptable to AUTHORITY's Risk Manager, which shall be filed by CONSULTANT with the AUTHORITY Executive Director prior to commencement of performance of any of CONSULTANT's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its AUTHORITY number or title and department; shall be kept current during the term of this Agreement; shall provide that AUTHORITY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change which is defined herein to mean a reduction in the limits of liability by endorsement, a change in the deductible per claim or the additional of exclusions to the policy, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and 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.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in paragraph 7(b)(1) and, where the vehicles are covered by a commercial policy rather than a personal policy, for the business automobile liability insurance coverage referenced in paragraph 7(b)(3) CONSULTANT shall also file with the evidence of coverage an endorsement from the insurance provider naming AUTHORITY, its officers, employees, agents and volunteers as additional insured and waiving subrogation. For the Workers Compensation insurance coverage, CONSULTANT shall file with

the evidence of coverage an endorsement waiving subrogation.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONSULTANT not covered by this Agreement then the limits in the applicable certificate relating to the additional insured coverage of AUTHORITY shall pertain only to liability for activities of CONSULTANT under this Agreement, and that the insurance provided is primary coverage to AUTHORITY, only as it relates to CONSULTANT's performance of this Agreement, with respect to any insurance or self-insurance programs maintained by AUTHORITY. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon AUTHORITY's request, 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.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, AUTHORITY's Risk Manager, which approval shall not be denied unless the AUTHORITY'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 AUTHORITY'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 AUTHORITY, its officers, employees, agents and volunteers or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONSULTANT agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

#### 8. **Hold Harmless/Defense/Indemnification.**

(a) In General. To the fullest extent allowed by law, CONSULTANT shall defend, indemnify, and hold harmless the AUTHORITY and its officers, agents, employees and representatives from and against any and all liability, claims, actions, 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, injury to or death of any person, including but not limited to AUTHORITY employees, and the public, or damage to the property of any person or entity, which to the extent arise out of the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of CONSULTANT includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. 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, provided that nothing shall require either Party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONSULTANT accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONSULTANT under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONSULTANT shall hold AUTHORITY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONSULTANT's actions in this regard.

9. **Termination for Cause.** If either Party shall fail to fulfill in a timely and proper manner that Party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other Party describing the nature of the breach, the non-defaulting Party may, in addition to any other remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting Party in the manner set forth in Paragraph 13 (Notices). AUTHORITY hereby authorizes the Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of AUTHORITY for cause.

10. **Other Termination.** This Agreement may be terminated by AUTHORITY for any reason and at any time by giving prior written notice of such termination to CONSULTANT specifying the effective date thereof at least thirty (30) days prior to the effective date; provided, however, that no such termination may be effected by AUTHORITY unless an opportunity for consultation is provided prior to the effective date of the termination. AUTHORITY hereby authorizes the Executive Director to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of AUTHORITY for the convenience of AUTHORITY.

11. **Disposition of, Title to and Payment for Work upon Expiration or Termination.**

(a) Upon expiration or termination of this Agreement, all finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of AUTHORITY, the property of and shall be promptly returned to AUTHORITY, although CONSULTANT may retain a copy of such work for its personal records only. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONSULTANT as part of its services under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only AUTHORITY shall be entitled to claim or apply for the copyright or patent thereof.

(b) CONSULTANT shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of

the termination; except that CONSULTANT shall not be relieved of liability to AUTHORITY for damages sustained by AUTHORITY by virtue of any breach of the Agreement by CONSULTANT whether or not the Agreement expired or was otherwise terminated, and AUTHORITY may withhold any payments not yet made to CONSULTANT for purpose of setoff until such time as the exact amount of damages due to AUTHORITY from CONSULTANT is determined.

(c) Notwithstanding anything to the contrary contained herein, all rights to patents, trademarks and copyrights owned by CONSULTANT (hereinafter "Intellectual Property") as well as any modifications, updates or enhancements to said Intellectual Property during the performance of the services shall remain the property of CONSULTANT.

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

13. **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.

AUTHORITY

Napa Vallejo Waste Management Authority  
1195 Third Street, Suite B10  
Napa CA 94559  
Attention: Executive Director

CONSULTANT

R3 Consulting Group  
1512 Eureka Road, Ste. 220  
Roseville, CA 95661

14. **Compliance with AUTHORITY Policies on Waste, Harassment, and Drug/Alcohol-Free Workplace.** To comply with state and federal laws, AUTHORITY has adopted various policies pertaining to workplace procedures and conditions. CONSULTANT hereby agrees to use its best efforts to comply with the following policies, copies of which are on file with the Clerk of the Board of Directors and incorporated by reference herein. CONSULTANT also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by AUTHORITY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Directors.

(b) AUTHORITY's Harassment Policy (Including Sexual Harassment) adopted by resolution of the Board of Directors.

(c) AUTHORITY's Drug and Alcohol Policy adopted by resolution of the Board of Directors.

15. **Maintenance of Confidential Information.** Confidential information is defined as all information disclosed to CONSULTANT which relates to AUTHORITY's past, present, and future activities, as well as activities under this Agreement. CONSULTANT shall hold all such information as CONSULTANT may receive, if any, in trust and confidence, except with the prior written approval of AUTHORITY, expressed through its Executive Director. Upon cancellation or expiration of this Agreement, CONSULTANT shall return to AUTHORITY all written and descriptive matter which contains any such confidential information, except that CONSULTANT may retain for its files a copy of any such material or information that it deems necessary for its records. CONSULTANT'S confidentiality obligations shall not apply if such data or information is within the public domain, previously known to CONSULTANT, obtained from third parties without violating any confidentiality agreement, required to be produced by CONSULTANT pursuant to any law, subpoena, or court order or required by CONSULTANT in the defense of any claim.

16. **No Assignments or Subcontracts.**

(a) In general. A consideration of this Agreement is the personal reputation of CONSULTANT; therefore, CONSULTANT shall not assign any interest in this Agreement or subcontract any of the services CONSULTANT is to perform hereunder without the prior written consent of AUTHORITY, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONSULTANT, or to perform any of the remaining services required under this Agreement within the same time frame required of CONSULTANT shall be deemed to be reasonable grounds for AUTHORITY to withhold its consent to assignment. For purposes of this subparagraph, the consent of AUTHORITY may be given by the Executive Director.

(b) Effect of Change in Status. If CONSULTANT changes its status during the term of this Agreement from or to that of a corporation, limited liability partnership, limited liability company, general partnership, or sole proprietorship, such change in organizational status shall be viewed as an attempted assignment of this Agreement by CONSULTANT. Failure of CONSULTANT to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

17. **Amendment/Modification.** Except as specifically provided herein, 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 the contract price or contract time and no compensation shall be paid for such extra work.

18. **Interpretation; Venue.**

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.



(b) **Venue.** This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either Party to submit to mediation or arbitration any dispute arising under this Agreement.

19. **Compliance with Laws.** CONSULTANT shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) **Non-Discrimination.** During the performance of this Agreement, CONSULTANT and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), or political affiliation or belief nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONSULTANT shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONSULTANT shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONSULTANT services or works required of AUTHORITY by the State of California pursuant to agreement between AUTHORITY and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONSULTANT and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) **Documentation of Right to Work.** CONSULTANT agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONSULTANT performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to

work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONSULTANT shall make the required documentation available upon request to AUTHORITY for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONSULTANT under this Agreement are subcontracted to a third party, CONSULTANT shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** CONSULTANT agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold AUTHORITY harmless from any liability it may incur to the United States or the State of California as a consequence of CONSULTANT's failure to pay or withhold, when due, all such taxes and obligations. In the event that AUTHORITY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONSULTANT agrees to furnish AUTHORITY with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** AUTHORITY, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of CONSULTANT which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, CONSULTANT shall maintain all required records for at least seven (7) years after AUTHORITY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONSULTANT and AUTHORITY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The Parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 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 AUTHORITY and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as AUTHORITY may consent to in writing prior to the acquisition by CONSULTANT of such conflict. 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. CONSULTANT agrees that if

such financial interest does exist at the inception of this Agreement, AUTHORITY may terminate this Agreement immediately upon giving written notice without further obligation by AUTHORITY to CONSULTANT under this Agreement.

(b) Statements of Economic Interest. CONSULTANT acknowledges and understands that AUTHORITY has developed and approved a Conflict of Interest Code as required by state law which requires CONSULTANT to file with the Elections Division of the Napa County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant", as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined in writing that CONSULTANT has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation. By executing this Agreement, the AUTHORITY hereby determines that CONSULTANT has been hired to perform a range of duties so limited in scope as to not be required to comply with such disclosure obligation.

24. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the Parties do not intend to create such rights.

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

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

27. **Standard of Care.** Services performed by CONSULTANT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by other professionals currently practicing under similar conditions subject to the time limits and financial, physical or any other constraints applicable to the Services. Except as stated herein, no other warranty, express or implied is made.

28. **Data and Information.** The AUTHORITY shall provide to CONSULTANT all the reports, data, studies, plans, specifications, documents and other information which are currently available and relevant to the Services. Unless directed otherwise, CONSULTANT shall be entitled to rely upon the reports, data, studies, plans, specifications, documents and other information provided by the AUTHORITY or others in performing the Services and, CONSULTANT assumes no responsibility or liability for the accuracy or completeness of such. CONSULTANT will not be responsible for any interpretations or recommendations generated or made by others, which are based, whole or in part, on CONSULTANT's data, interpretations or recommendations.

29. **Right of Entry.** The AUTHORITY will provide for the right of entry for CONSULTANT and its subcontractors in order to complete the Services under this Agreement. If the AUTHORITY does not own the site, the AUTHORITY must obtain permission for CONSULTANT to enter the site and perform the Services.

30. **Health and Safety.** CONSULTANT is responsible only for the health and safety of its employees and subcontractors. Nothing herein shall be construed to relieve AUTHORITY or any other consultants or contractors from their responsibilities for maintaining a safe job site. CONSULTANT shall not advise on, issue directions regarding, or assume control over safety conditions and programs for others at the job site. Neither the professional activities of CONSULTANT, nor the presence of CONSULTANT or its employees and subcontractors, shall be construed to imply that CONSULTANT controls the operations of others or has any responsibility for job site safety.

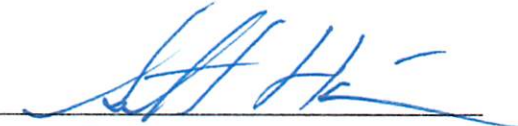
31. **Cost of Documents or Written Reports.** As required by Government Code section 7550, any document or report prepared by CONSULTANT for or under the direction of AUTHORITY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report, if the total cost of the work exceeds five thousand dollars (\$5,000). The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

32. **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.

33. **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 the AUTHORITY, by and through the Chair of its Board of Directors, and by CONSULTANT by and through its duly authorized officer(s).

R3 CONSULTING GROUP

By:   
Scott Hanin

Principal

NAPA-VALLEJO WASTE MANAGEMENT  
 AUTHORITY, a joint powers agency

By: \_\_\_\_\_  
 MARY LUROS, NVWMA Chair

<p>APPROVED AS TO FORM          Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u>          Authority Counsel</p> <p>Date: <u>September 6, 2023</u></p>	<p>APPROVED BY THE AUTHORITY          BOARD OF DIRECTORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Secretary of the Authority</p>	<p>ATTEST: MARIE NICHOLAS          Secretary of the Authority</p> <p>By: _____</p>
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**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**Negotiation and Technical Support Proposal from R3 Consulting  
Group, Inc. dated August 29, 2023**